

From: Morning Energy [morningenergy@politico.com]
Sent: 7/9/2018 2:04:11 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: POLITICO's Morning Energy, presented by the National Rural Electric Cooperative Association: A new day at EPA? — Let the SCOTUS show begin — FERC's political animal

By Kelsey Tamborrino | 07/09/2018 10:00 AM EDT

With help from Emily Holden, Darius Dixon, Alex Guillén and Daniel Lippman

A NEW DAY AT EPA? Today marks Andrew Wheeler's first official day at the helm of EPA, and the new acting administrator is aiming for less secrecy than his predecessor as he implements the administration's goals of rolling back environmental regulations, *Pro's Emily Holden reports*. "As with any change in leadership you can expect a change in approach, and in this case a change in tone as well," EPA public affairs official John Konkus says.

Details are still being worked out, but "a change is coming," compared to how Scott Pruitt ran things, Konkus said. Wheeler will announce where he is speaking or traveling in advance, he will publish his full calendars "frequently," without litigation from groups pursuing public records, and he and other top political appointees will hold briefings for the media on major policy announcements.

The agency has come under fire for its possible violations of public records laws, including a New York Times story that a fired aide had been asked to delete sensitive meetings from Pruitt's calendar. The Society of Environmental Journalists questioned EPA's decisions to bar reporters from conferences on public health and criticized the agency's Freedom of Information Act backlog and screening practices.

While Wheeler's approach may change, EPA's agenda remains largely unchanged. Wheeler will still pursue much the same policy platform — fighting the courts to roll back a slate of Obama-era regulations on climate change, air pollution, stream protection and more, as *Emily reports* with *Pro's Eric Wolff*.

In a Q&A with The Washington Post on Friday, Wheeler showed he differs from Pruitt in at least one major way. He said he considers an endangerment finding that is the agency's basis for regulating carbon dioxide emissions to be "settled law." While he was "very critical" of how the agency wrote the finding, he said "there would have to be a major, compelling reason to try to ever reopen that. I don't think that's an open question at this point."

NOT OVER YET: Pruitt may be gone from EPA, but that doesn't mean the many probes into his ethics, spending and management are also kaput, *POLITICO's Anthony Adragna reports*. For one, a spokesman said EPA's inspector general expects to finish and release as many as four separate reports on Pruitt this summer — with an investigation into his security detail potentially wrapping up as early as this month. Likewise, the House Oversight Committee will continue its probe of Pruitt. A committee aide told Anthony the panel expects to interview another former Pruitt aide and current whistleblower, Kevin Chmielewski, soon. Read more.

WELCOME TO MONDAY! I'm your host, Kelsey Tamborrino. Bracewell's Scott Segal knew that former House Speaker William Pennington of New Jersey was the first sitting speaker to lose reelection back home. For today: Besides the U.S., what other countries don't use the metric system? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

TIME FOR THE SCOTUS SHOW: President Donald Trump plans to announce a new justice nominee today who will likely tilt the court to the right for generations to come. Below ME breaks down the short list of names he's reported to be considering.

— **Brett Kavanaugh** is widely seen as critical of many Obama-era EPA rules. In 2012, for example, Kavanaugh wrote for the panel that rejected an EPA rule to curb emissions that cross state lines.

— **Raymond Kethledge** did a stint serving as an in-house counsel for the Ford Motor Company and has criticized the "Chevron doctrine," which requires courts to defer to agencies on many regulatory decisions. While greens will certainly not cheer a Kethledge nomination, he did rule on their side in a narrow decision concerning parts of EPA's decision on air quality standards for particulate matter.

— **Amy Coney Barrett** has served on the 7th Circuit Court of Appeals only since last year. In her brief stint, she was part of the panel that determined the Army Corps of Engineers had not sufficiently analyzed whether a parcel of wetlands fell under the jurisdiction of the Clean Water Act, as noted by the SCOTUSBlog.

— **Thomas Hardiman**, who the New York Times reports may be the late favorite, was the runner-up for last year's SCOTUS vacancy. Hardiman comes with a conservative judicial record, but less baggage than some of the other potential picks. He served on the 3rd Circuit Court of Appeals with Trump's older sister.

**** A message from the National Rural Electric Cooperative Association:** We're growing the rural economy. Just as they did with electricity 75 years ago, nearly 100 electric cooperatives are inspiring change in communities they serve. Providing access to high-speed internet is creating new opportunities in business, education and healthcare. Learn more at <https://bit.ly/2kLKp7Z>. **

FERC'S POLITICAL ANIMAL: We all know that FERC's profile has steadily risen over the past five years but color ME surprised if anyone ever predicted that we'd hear its chief of staff on the radio, let alone Breitbart radio. FERC chief of staff Anthony Pugliese did a 20-minute interview with Breitbart News Sunday last night, expounding on the resilience virtues of coal and nuclear power, the Transportation Department's progress on cutting regulations, and how much the Trump administration is doing to improve American lives in places like his home state of Pennsylvania.

Although Pugliese didn't take most of the bait being thrown at him from a host who called renewable energy a "subsidy pit" and in what ways FERC might be trying to rollback Obama-era rules, he took a big swipe at the Democrats in the Northeast for opposing natural gas pipelines. "You still have some parts of the country that are controlled by the Democratic Party and others that are determined to ensure that no infrastructure goes through their states and are determined to say no just because the Trump administration is supporting it," he told radio host Amanda House, who headlined the interview on Twitter as "MAGA Energy." "They are putting politics above the best interests of not only of consumers in their states but also national security ... [and] for purely political reasons, some governors and other state and local entities are blocking our ability to put in that infrastructure." Pugliese's comments echo that of Energy Secretary Rick Perry, who has similarly called out New York for its opposition to gas pipelines. Listen to Pugliese's interview.

WHAT'S PRUITT'S NEXT MOVE? Pruitt's exit from EPA doesn't mean any further political ambitions have been pushed aside, state reporter Justin Wingerter points out in new video on The Oklahoman's website. Pruitt's resignation, with the blessing of Trump, allows him to pursue other political avenues in his home state, where Trump is still popular and where he'll be able to cast blame on greens and the media for his exit instead of his own management of the agency. Watch it here.

— **The New York Times also took a look** at Pruitt's prospects back home, where some liberals and conservatives agree he could create a comeback. More here.

EPA NULLIFIES CAP ON TRUCK GLIDERS: EPA has told the manufacturers of glider trucks that the agency will not enforce a strict 300-unit production cap for 2018 and 2019, freeing companies to roll out as many as 10 times that number of trucks for those years. Gliders — new truck cabs with refurbished engines — are significantly more polluting than new engines, according to previous EPA studies. Three glider makers, including Tennessee's Fitzgerald, wrote to EPA one year ago asking for help. EPA spokeswoman Molly Block said in a statement on Sunday that EPA is "exercising its enforcement discretion" to give glider companies "regulatory certainty" to continue selling thousands of vehicles while EPA continues to work on its proposed repeal of the glider rule. The enforcement change was first reported Friday by The New York Times.

WE MEET AGAIN: The parties to the Montreal Protocol will be meeting in Vienna later this week to mark the 40th meeting of the Open Ended Working Group. Expect CFC-11, a chemical mostly used to produce foam insulation for refrigerators and buildings, but banned by the pact to be a topic of discussion. The chemical has recently popped up in China.

SAGE GROUSE SIREN: Lawmakers on the House and Senate Armed Services Committees are set to return this week to begin reconciling their differences on the annual National Defense Authorization Act, H.R. 5515 (115), which they aim to complete by the end of July. To do that, Pro Defense's Connor O'Brien and Gregory Hellman break down the key issues conferees from both parties must iron out, which includes a handful of environmental riders. The most notable one would limit protections for the greater sage grouse, which House Republicans contend would hamper operations on western training ranges. More here.

LINEUP ANNOUNCEMENT: The conservative Heartland Institute — a group that lobbies against climate action — announced last week that Douglas Matheney, special adviser to Perry, will deliver a keynote speech at group's America First Energy Conference on Aug. 7 in New Orleans. Matheney is assigned to the department's Office of Fossil Energy.

BRICK HOUSE: The D.C. Circuit Court of Appeals remanded EPA on Friday for rules related to acid gas pollutants from brick kilns in its 2015 rule. The federal court ruled the agency failed to correctly analyze the risks of the pollutants, siding with greens including the Sierra Club and NRDC, Emily reports for Pros. EPA will now have to either set stronger standards or provide research to back up its claims, said James Pew, an Earthjustice lawyer who argued the case. More here.

MAIL CALL! PAST IS PROLOGUE: The top Democrat on the Environment and Public Works Committee wrote to Wheeler last week, urging him to remedy the "damage" done by Pruitt and restore it the public's trust in EPA. Sen. Tom Carper points to William Ruckelshaus, who replaced former EPA Administrator Anne Gorsuch after she was forced to resign. Read it here.

FOR YOUR RADAR: This morning members of the "Boot Pruitt" campaign will be outside the Federal Triangle Metro station from 8:30-9:15 a.m. to thank EPA employees for their work.

TAKE A GLANCE! Texans for Natural Gas is out with an analysis today on the emissions data used by the Bureau of Land Management to craft the 2016 venting and flaring rule. The analysis finds the data were much higher than current estimates, and found that "methane emissions from associated gas venting and flaring during petroleum production declined 17 percent between 2013 and 2016," even as domestic oil production increased. Read it here.

MOVER, SHAKER: Emily O'Brien is now brand director at Southern Company. She spent most of her career at Coca-Cola working in brand management on the company's health and wellness brands and most recently was an adjunct professor at Georgia State, teaching business communications.

QUICK HITS

— "Crews work to restore power to L.A. County residents and businesses as heat wave continues," [Los Angeles Times](#).

— "Ex-aide says he'll take credit for Pruitt's downfall," [The Hill](#).

— "Meet America's new climate normal: towns that flood when it isn't raining," [The Guardian](#).

— "EPA interim chief lobbied for company seeking EPA contracts," [CNN](#).

THAT'S ALL FOR ME!

**** A message from the National Rural Electric Cooperative Association:** With broadband, America's electric cooperatives are creating a better quality of life and economic opportunities in rural communities. Nearly 100 electric cooperatives are inspiring change in communities they serve, just as they did by delivering electricity 75 years ago. Providing high-speed internet to 23 million rural residents still lacking broadband access is creating new opportunities in business, education and healthcare. Combined with affordable, reliable electricity, it's powering new economic growth in rural America. Learn more at <https://bit.ly/2kLKp7Z>. **

To view online:

<https://www.politico.com/newsletters/morning-energy/2018/07/09/a-new-day-at-epa-273153>

To change your alert settings, please go to <https://secure.politico.com/settings>

POLITICO

This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Please click [here](#) and follow the steps to unsubscribe.

From: Morning Transportation [morningtransportation@politico.com]
Sent: 7/9/2018 2:04:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: POLITICO's Morning Transportation, presented by PlanetM: Transportation watch (the SCOTUS version) — FRA 'refining' railroad safety panel — Hollingsworth wants to get trucker CDL to House floor soon

By Stephanie Beasley | 07/09/2018 10:00 AM EDT

With help from Tanya Snyder, Lauren Gardner and Alex Guillén

TODAY'S THE DAY: President Donald Trump is expected to announce his Supreme Court pick to replace Justice Anthony Kennedy tonight. Judges Brett Kavanaugh, Amy Coney Barrett and Raymond Kethledge are widely believed to be the top contenders for the slot. While none seem to have an especially strong transportation background, those issues will certainly come up during the tenure of whoever is selected. So, we took a look at some upcoming cases of interest:

— Depending on how the U.S. Court of Appeals for the D.C. Circuit rules, the Association of American Railroads' case against DOT over a 2008 passenger rail law could again be kicked up to the high court. DOT is now arguing that the court should sever a provision in the law that allows STB to mediate any disputes between the FRA and Amtrak over co-written performance metrics, in order to remedy the court's past issues with the law. The appellate court's three-judge panel heard oral arguments for the case back in March. And it previously ruled that allowing FRA and Amtrak to co-author metrics and standards was unconstitutional.

— Another major case that could come up is a California-led lawsuit filed to the D.C. Court of Appeals in May over EPA's attempt to roll back Obama-era fuel emissions standards. But it probably won't be heard until this fall, and then the decision would have to be appealed "so the Supremes could hear it probably in the fall of 2019 term," said Jeff Davis, a senior fellow at the Eno Center for Transportation. [Here's](#) more background on the case from Pro's Energy team.

— The high court still has a pending [request](#) to review an appeals court decision overturning a multimillion dollar fraud verdict against guardrail manufacturer Trinity Industries.

WELCOME TO MONDAY: Thanks for tuning in to POLITICO's Morning Transportation, your daily tipsheet on all things trains, planes, automobiles and ports. Stephanie is your driver. Send tips, scoops and song requests to [@Steph_Beasley](#) or sbeasley@politico.com.

I was born right here, November forty three /Dad was a captain in the army / Fighting the Germans in Sicily /
My poor little momma / Didn't know a soul in L.A. / So we went down to the Union Station / Made our getaway

LISTEN HERE: Follow MT's [playlist](#) on Spotify. What better way to start your day than with songs (picked by us and readers) about roads, rails, rivers and runways?

EPA NULLIFIES CAP ON TRUCK GLIDERS: EPA has told the manufacturers of glider trucks that the agency will not enforce a strict 300-unit production cap for 2018 and 2019, freeing companies to roll out as many as ten times that number of trucks for those years. An Obama-era rule would have limited each manufacturer starting in 2018 to just 300 gliders, new truck cabs with refurbished engines, after EPA studies found gliders are significantly more polluting than new engines. That cap "would effectively destroy the glider industry," three glider makers, including Tennessee's Fitzgerald, [wrote to EPA](#) one year ago. Spokeswoman Molly Block said in a statement on Sunday that EPA is "exercising its enforcement discretion" through 2019 for

any glider makers who stick to a looser production cap that applied in 2017 and was based on each company's previous output. That will give glider companies "regulatory certainty" to continue selling thousands of vehicles while EPA continues to work on its proposed repeal of the glider rule, she added. The enforcement change was first reported Friday by The New York Times.

IT WAS ALL GOOD JUST A YEAR AGO: Michael Grunwald takes a deep dive into why Trump turned his back on funding the Gateway Project despite earlier assurances to New York and New Jersey lawmakers that he would support it. Trump was in a "bipartisan mood" when he met with a group that included Senate Minority Leader Chuck Schumer (D-N.Y.), former Republican New Jersey Gov. Chris Christie, and Rep. Pete King (R-N.Y.) last September about the \$30 billion program and seemed to have even "embraced an Obama administration commitment for federal taxpayers to foot half the bill," Michael writes. But the tides turned when Trump approached Schumer after the meeting about supporting a border wall and he refused. The administration has since made a mission of trying to derail the project. "Gateway might be the most vivid current illustration of America's literally crumbling infrastructure—and of the dysfunctional zero-sum politics that often stymies efforts to fix it," Michael adds.

**** A message from PlanetM - Michigan, where big ideas in mobility are born:** As the whole world jumps on the mobility bandwagon, only Michigan provides access to an ecosystem of knowledge, innovation, expertise and infrastructure that allows mobility companies to thrive. That's why Michigan continues to rank as number one in the nation in research spending-to-venture capital investment ratio. Learn more at PlanetM.com
**

DOWN THE TRACKS: MT's rail readers may have noticed recently that FRA hasn't renewed the charter for its Railroad Safety Advisory Committee since it expired on May 17. An agency spokeswoman said last week that "refinements are being made to" a rechartering proposal for the panel, which aims to develop new regulations through industry, labor and other stakeholders. An industry source said FRA asked for RSAC members' resumes late last year as part of a departmental review of its Federal Advisory Committees; given the lapse, they're not considered members anymore, per an email the agency sent Friday that MT obtained.

MIXED REVIEWS: The DOT inspector general said Friday that while FAA is doing a good job of identifying security risks to its Data Communications system, it's not mitigating those risks fast enough, and two major deadlines have slipped significantly. DataComm "will play an important role in air traffic controller to flight crew communication" as the FAA continues to modernize the air traffic system. Pros can read more here.

STILL BUZZING AROUND: A federal appeals court on Friday upheld FAA's small drone rule, beating back a challenge from a model aircraft hobbyist who's had previous success against the agency, our Lauren Gardner writes. The U.S. Court of Appeals for the D.C. Circuit wasn't swayed by John A. Taylor's arguments that the rule improperly regulates model aircraft and was "arbitrary and capricious." Pros may remember Taylor from a case he won in the same court last year against FAA over its drone registration rule; Congress reinstated the requirement in a 2017 defense authorization law.

HOLLINGSWORTH TALKS TRUCKER ISSUES: MT caught up with Rep. Trey Hollingsworth (R-Ind.) on Friday to discuss commercial truck driver's license issues. Hollingsworth is one of the lead cosponsors of a bill (H.R. 5358 (115)) that would help to reduce a driver shortage by allowing 18-20 year-old truckers on interstate highways. He said he was pleased that FMCSA last week announced the launch of a three-year pilot that would allow 18-20 year-olds with the military equivalent of a commercial truck license to operate interstate. However, he added, the House should still pass its bill this year because it's broader and requires "extra safety training and an extra apprenticeship program over and above the basic CDL level." "We are working really hard to see if we can get it to the floor this year because it is really important, because it's such an acute problem. And this isn't a problem that time will solve," Hollingsworth said.

TORT REFORM: An assortment of heavy-hitters from the drone industry wrote to the Uniform Law Commission late last week to express concern that the ULC's model tort law on drones would "give property owners a right to establish no-fly zones prohibiting any unmanned aircraft from flying below 200 feet" — an authority the groups say is best left to the FAA. The letter also accuses the ULC of redefining the tort such that no one has to be adversely affected by the presence of the drone — "the mere presence of an unmanned aircraft of any size for any period within 200 feet over private property (or any structure on it) causes a per se injury."

THIS WEEK:

Tuesday — NTSB launches a two-day investigative hearing into recent Amtrak crashes.

Wednesday — The Council of the Inspectors General on Integrity and Efficiency hosts an all-day conference to celebrate the 40th anniversary of the passage of the Inspector General Act. A House Transportation subcommittee holds a meeting on counterdrone issues. The Senate Environment and Public Works Committee holds a hearing on infrastructure loans. A House Energy and Commerce subcommittee holds a hearing on drugged driving.

Thursday — FMCSA hosts a public meeting on automated driving systems. Union Pacific CEO Lance Fritz will discuss trade and technology at a National Press Club luncheon.

Friday — Reps. Dan Lipinski (D-Ill.) and Frank LoBiondo (R-N.J.) host a panel discussion on how drone operators collect and process data.

NEED A LYFT? Lyft announced Friday that it would offer discounted rates to D.C.-area residents affected by weekend transit station closures this month. Steve Taylor, general manager for Lyft Mid-Atlantic, said the company was excited to provide "convenient, reliable, and affordable transportation" while WMATA makes improvements to its system. However, Lyft and Uber opposed the city's recently approved proposal to raise the tax on ride-hailing services from 1 percent to 6 percent to help pay for its share of metro funding, and said the move could result in fare hikes.

FOR YOUR RADAR: Be sure to check out this short Q&A POLITICO's Daniel Lippman had with Jill Zuckman of SKDKnickerbocker, who celebrated her birthday on Friday. As many Pros know, Zuckman was assistant to the secretary and director of public affairs for former DOT Secretary Ray LaHood. It turns out that she's also a prolific baker and budding surfer.

THE AUTOBAHN:

— "Shortage of truck drivers hits LI businesses, pushes up wages." Newsday.

— "As bike shares spread coast to coast, cities look to Seattle for clues on how to regulate the industry." The Seattle Times.

— "TSA is recruiting security officers in a tight labor market." CNBC.

— "How control of Congress could swing on a fight to repeal California's gas tax." The New York Times.

— "Schumer needs Dems united on SCOTUS. That won't be easy." POLITICO.

— "With ridership falling, Metro will spend \$2.2 million to study bus business model." The Washington Post.

THE COUNTDOWN: DOT appropriations run out in 84 days. The FAA reauthorization expires in 84 days. Highway and transit policy is up for renewal in 815 days.

**** A message from PlanetM - Michigan, where big ideas in mobility are born:** The future of mobility will affect all aspects of society and our lives. And Michigan leads the way in the research, development and testing of autonomous vehicles, due in large part to its technology-friendly regulations and public-private ventures. Case in point: the American Center for Mobility. This state-of-the-art global center was recently named a federal driverless car proving ground. Continued federal funding will help Michigan to continue its ground-breaking efforts to create safer, more energy-efficient vehicles tested in real-world environments. Learn more at PlanetM.com. Where big ideas in mobility are born. **

To view online:

<https://www.politico.com/newsletters/morning-transportation/2018/07/09/transportation-watch-the-scotus-version-273144>

To change your alert settings, please go to <https://secure.politico.com/settings>

POLITICO

This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Please click [here](#) and follow the steps to unsubscribe.

From: POLITICO Pro Energy [politicoemail@politicopro.com]
Sent: 7/9/2018 9:41:23 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Morning Energy, presented by the National Rural Electric Cooperative Association: A new day at EPA? — Let the SCOTUS show begin — FERC's political animal

By Kelsey Tamborrino | 07/09/2018 05:39 AM EDT

With help from Emily Holden, Darius Dixon, Alex Guillén and Daniel Lippman

A NEW DAY AT EPA? Today marks Andrew Wheeler's first official day at the helm of EPA, and the new acting administrator is aiming for less secrecy than his predecessor as he implements the administration's goals of rolling back environmental regulations, Pro's Emily Holden [reports](#). "As with any change in leadership you can expect a change in approach, and in this case a change in tone as well," EPA public affairs official John Konkus says.

Details are still being worked out, but "a change is coming," compared to how Scott Pruitt ran things, Konkus said. Wheeler will announce where he is speaking or traveling in advance, he will publish his full calendars "frequently," without litigation from groups pursuing public records, and he and other top political appointees will hold briefings for the media on major policy announcements.

The agency has come under fire for its possible violations of public records laws, including a New York Times story that a fired aide had been asked to [delete](#) sensitive meetings from Pruitt's calendar. The Society of Environmental Journalists questioned EPA's decisions to bar reporters from conferences on public health and criticized the agency's Freedom of Information Act backlog and screening practices.

While Wheeler's approach may change, EPA's agenda remains largely unchanged. Wheeler will still pursue much the same policy platform — fighting the courts to roll back a slate of Obama-era regulations on climate change, air pollution, stream protection and more, as Emily [reports](#) with Pro's Eric Wolff.

In a Q&A with The Washington Post on Friday, Wheeler showed he differs from Pruitt in at least one major way. He said he considers an endangerment finding that is the agency's basis for regulating carbon dioxide emissions to be "settled law." While he was "very critical" of how the agency wrote the finding, he said "there would have to be a major, compelling reason to try to ever reopen that. I don't think that's an open question at this point."

NOT OVER YET: Pruitt may be gone from EPA, but that doesn't mean the many probes into his ethics, spending and management are also kaput, POLITICO's Anthony Adragna reports. For one, a spokesman said EPA's inspector general expects to finish and release as many as four separate reports on Pruitt this summer — with an [investigation](#) into his security detail potentially wrapping up as early as this month. Likewise, the House Oversight Committee will continue its probe of Pruitt. A committee aide told Anthony the panel expects to interview another former Pruitt aide and current whistleblower, Kevin Chmielewski, soon. Read [more](#).

WELCOME TO MONDAY! I'm your host, Kelsey Tamborrino. Bracewell's Scott Segal knew that former House Speaker William Pennington of New Jersey was the first sitting speaker to lose reelection back home. For today: Besides the U.S., what other countries don't use the metric system? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](#), [@Morning_Energy](#) and [@POLITICOPro](#).

TIME FOR THE SCOTUS SHOW: President Donald Trump plans to announce a new justice nominee today who will likely tilt the court to the right for generations to come. Below ME breaks down the short list of names he's reported to be considering.

— **Brett Kavanaugh** is widely seen as critical of many Obama-era EPA rules. In 2012, for example, Kavanaugh wrote for the panel that rejected an EPA rule to curb emissions that cross state lines.

— **Raymond Kethledge** did a stint serving as an in-house counsel for the Ford Motor Company and has criticized the "Chevron doctrine," which requires courts to defer to agencies on many regulatory decisions. While greens will certainly not cheer a Kethledge nomination, he did rule on their side in a narrow decision concerning parts of EPA's decision on air quality standards for particulate matter.

— **Amy Coney Barrett** has served on the 7th Circuit Court of Appeals only since last year. In her brief stint, she was part of the panel that determined the Army Corps of Engineers had not sufficiently analyzed whether a parcel of wetlands fell under the jurisdiction of the Clean Water Act, as noted by the SCOTUSBlog.

— **Thomas Hardiman**, who the New York Times reports may be the late favorite, was the runner-up for last year's SCOTUS vacancy. Hardiman comes with a conservative judicial record, but less baggage than some of the other potential picks. He served on the 3rd Circuit Court of Appeals with Trump's older sister.

**** A message from the National Rural Electric Cooperative Association:** We're growing the rural economy. Just as they did with electricity 75 years ago, nearly 100 electric cooperatives are inspiring change in communities they serve. Providing access to high-speed internet is creating new opportunities in business, education and healthcare. Learn more at <https://bit.ly/2kLKp7Z>. **

FERC'S POLITICAL ANIMAL: We all know that FERC's profile has steadily risen over the past five years but color ME surprised if anyone ever predicted that we'd hear its chief of staff on the radio, let alone Breitbart radio. FERC chief of staff Anthony Pugliese did a 20-minute interview with Breitbart News Sunday last night, expounding on the resilience virtues of coal and nuclear power, the Transportation Department's progress on cutting regulations, and how much the Trump administration is doing to improve American lives in places like his home state of Pennsylvania.

Although Pugliese didn't take most of the bait being thrown at him from a host who called renewable energy a "subsidy pit" and in what ways FERC might be trying to rollback Obama-era rules, he took a big swipe at the Democrats in the Northeast for opposing natural gas pipelines. "You still have some parts of the country that are controlled by the Democratic Party and others that are determined to ensure that no infrastructure goes through their states and are determined to say no just because the Trump administration is supporting it," he told radio host Amanda House, who headlined the interview on Twitter as "MAGA Energy." "They are putting politics above the best interests of not only of consumers in their states but also national security ... [and] for purely political reasons, some governors and other state and local entities are blocking our ability to put in that infrastructure." Pugliese's comments echo that of Energy Secretary Rick Perry, who has similarly called out New York for its opposition to gas pipelines. Listen to Pugliese's interview.

WHAT'S PRUITT'S NEXT MOVE? Pruitt's exit from EPA doesn't mean any further political ambitions have been pushed aside, state reporter Justin Wingerter points out in new video on The Oklahoman's website. Pruitt's resignation, with the blessing of Trump, allows him to pursue other political avenues in his home state, where Trump is still popular and where he'll be able to cast blame on greens and the media for his exit instead of his own management of the agency. Watch it here.

— **The New York Times also took a look** at Pruitt's prospects back home, where some liberals and conservatives agree he could create a comeback. More here.

EPA NULLIFIES CAP ON TRUCK GLIDERS: EPA has told the manufacturers of glider trucks that the agency will not enforce a strict 300-unit production cap for 2018 and 2019, freeing companies to roll out as many as 10 times that number of trucks for those years. Gliders — new truck cabs with refurbished engines — are significantly more polluting than new engines, according to previous EPA studies. Three glider makers, including Tennessee's Fitzgerald, wrote to EPA one year ago asking for help. EPA spokeswoman Molly Block said in a statement on Sunday that EPA is "exercising its enforcement discretion" to give glider companies "regulatory certainty" to continue selling thousands of vehicles while EPA continues to work on its proposed repeal of the glider rule. The enforcement change was first reported Friday by The New York Times.

WE MEET AGAIN: The parties to the Montreal Protocol will be meeting in Vienna later this week to mark the 40th meeting of the Open Ended Working Group. Expect CFC-11, a chemical mostly used to produce foam insulation for refrigerators and buildings, but banned by the pact to be a topic of discussion. The chemical has recently popped up in China.

SAGE GROUSE SIREN: Lawmakers on the House and Senate Armed Services Committees are set to return this week to begin reconciling their differences on the annual National Defense Authorization Act, H.R. 5515 (115), which they aim to complete by the end of July. To do that, Pro Defense's Connor O'Brien and Gregory Hellman break down the key issues conferees from both parties must iron out, which includes a handful of environmental riders. The most notable one would limit protections for the greater sage grouse, which House Republicans contend would hamper operations on western training ranges. More here.

LINEUP ANNOUNCEMENT: The conservative Heartland Institute — a group that lobbies against climate action — announced last week that Douglas Matheney, special adviser to Perry, will deliver a keynote speech at group's America First Energy Conference on Aug. 7 in New Orleans. Matheney is assigned to the department's Office of Fossil Energy.

BRICK HOUSE: The D.C. Circuit Court of Appeals remanded EPA on Friday for rules related to acid gas pollutants from brick kilns in its 2015 rule. The federal court ruled the agency failed to correctly analyze the risks of the pollutants, siding with greens including the Sierra Club and NRDC. Emily reports for Pros. EPA will now have to either set stronger standards or provide research to back up its claims, said James Pew, an Earthjustice lawyer who argued the case. More here.

MAIL CALL! PAST IS PROLOGUE: The top Democrat on the Environment and Public Works Committee wrote to Wheeler last week, urging him to remedy the "damage" done by Pruitt and restore it the public's trust in EPA. Sen. Tom Carper points to William Ruckelshaus, who replaced former EPA Administrator Anne Gorsuch after she was forced to resign. Read it here.

FOR YOUR RADAR: This morning members of the "Boot Pruitt" campaign will be outside the Federal Triangle Metro station from 8:30-9:15 a.m. to thank EPA employees for their work.

TAKE A GLANCE! Texans for Natural Gas is out with an analysis today on the emissions data used by the Bureau of Land Management to craft the 2016 venting and flaring rule. The analysis finds the data were much higher than current estimates, and found that "methane emissions from associated gas venting and flaring during petroleum production declined 17 percent between 2013 and 2016," even as domestic oil production increased. Read it here.

MOVER, SHAKER: Emily O'Brien is now brand director at Southern Company. She spent most of her career at Coca-Cola working in brand management on the company's health and wellness brands and most recently was an adjunct professor at Georgia State, teaching business communications.

QUICK HITS

— "Crews work to restore power to L.A. County residents and businesses as heat wave continues," [Los Angeles Times](#).

— "Ex-aide says he'll take credit for Pruitt's downfall," [The Hill](#).

— "Meet America's new climate normal: towns that flood when it isn't raining," [The Guardian](#).

— "EPA interim chief lobbied for company seeking EPA contracts," [CNN](#).

HAPPENING THIS WEEK

MONDAY

10 a.m. — The Bipartisan Policy Center [discussion](#) on a new report "Why Inspectors General Matter," 1225 I Street NW

1 p.m. — The Smart Electric Power Alliance holds [2018 Grid Evolution Summit](#), 1919 Connecticut Avenue NW

TUESDAY

8:45 a.m. — Government Executive holds [Clean Air Action Forum](#), 1 Constitution Avenue NE

9:30 a.m. — The Environmental and Energy Study Institute holds Congressional [Clean Energy Expo and Policy Forum](#), 2168 Rayburn

10 a.m. — The World Resources Institute [webinar](#) on "Introducing Climate Watch: A Tool for Researchers and Decision Makers"

5 p.m. — House Rules Committee [meets](#) to formulate a rule on [H.R. 3281 \(115\)](#), the "Reclamation Title Transfer and Non-Federal Infrastructure Incentivization Act," H-313

WEDNESDAY

8:30 a.m. — The National Academy of Sciences [meeting](#) of the Environmental Health Matters Initiative on "Moving Forward Together," 2101 Constitution Avenue NW

9 a.m. — Moms Clean Air Force holds [Play-In for Climate Action](#), 3rd Street NW & Madison Drive NW

10 a.m. — Senate Environment and Public Works Committee [hearing](#) on "The Long-term Value to U.S. Taxpayers of Low-cost Federal Infrastructure Loans," 406 Dirksen

12:30 p.m. — Ipsun Power Inc. [discussion](#) on "passive design, solar design and the current state of the solar industry," 600 New Hampshire Avenue NW

1 p.m. — David Gardiner and Associates [webinar](#) on "State of Corporate Renewable Energy Procurement in the U.S."

2 p.m. — House Natural Resources Water, Power and Oceans Subcommittee [hearing](#) on proper administration of water facilities, 1324 Longworth

2:30 p.m. — Senate Indian Affairs Committee hearing on S. 2154 (115), the "Kickapoo Tribe in Kansas Water Rights Settlement Agreement Act" and S. 2599 (115), the "Leech Lake Band of Ojibwe Reservation Restoration Act," 628 Dirksen

3 p.m. — Senate Energy and Natural Resources National Parks Subcommittee hearing on S. 3172 (115), the "Restore Our Parks Act," 366 Dirksen

THURSDAY

9 a.m. — The Maryland Energy Administration and Pepco hold the Electric Vehicle Workshop and Showcase, Rockville, Md.

10 a.m. — House Science Energy Subcommittee and Research and Technology Subcommittee joint hearing on "Big Data Challenges and Advanced Computing Solutions," 2318 Rayburn

10 a.m. — Senate Energy and Natural Resources Committee hearing on "Interstate Delivery Networks for Natural Gas and Electricity," 366 Dirksen

10:30 a.m. — The Bipartisan Policy Center discussion on "Environmental Progress in the Oil and Gas Industry: What's Next?" 1225 Eye St NW

12:00 p.m. — The Woodrow Wilson Center's Environmental Change and Security Program discussion on the U.S. Agency for International Development Office of Forestry and Biodiversity, 1300 Pennsylvania Avenue NW

2 p.m. — The Woodrow Wilson Center's China Environment Forum discussion on "Beheading Dragons: Streamlining China's Environmental Governance," 1300 Pennsylvania Avenue NW

FRIDAY

9 a.m. — George Washington University's Center for Cyber and Homeland Security forum on "Protecting Energy Infrastructure," 1957 E Street NW

12 p.m. — The National Capital Area Chapter of the United States Association for Energy Economics discussion on "A U.S. View of Global Oil and Natural Gas Issues," 618 H Street NW

THAT'S ALL FOR ME!

**** A message from the National Rural Electric Cooperative Association:** With broadband, America's electric cooperatives are creating a better quality of life and economic opportunities in rural communities. Nearly 100 electric cooperatives are inspiring change in communities they serve, just as they did by delivering electricity 75 years ago. Providing high-speed internet to 23 million rural residents still lacking broadband access is creating new opportunities in business, education and healthcare. Combined with affordable, reliable electricity, it's powering new economic growth in rural America. Learn more at <https://bit.ly/2kLKp7Z>. **

To view online:

<https://subscriber.politicopro.com/newsletters/morning-energy/2018/07/a-new-day-at-epa-273153>

Stories from POLITICO Pro

Wheeler aims for improved transparency at EPA [Back](#)

By Emily Holden | 07/09/2018 05:03 AM EDT

EPA is promising less secrecy under its new boss.

Andrew Wheeler takes over today as acting administrator after Scott Pruitt resigned amid a cloud of scandal and accusations of violating public records laws.

An EPA spokesman says Wheeler wants to improve the agency's relationship with the public and the press. Wheeler once worked as a career employee at EPA during the administration of George H.W. Bush, before long stints on Capitol Hill and as a lobbyist for coal companies and other businesses.

"As with any change in leadership you can expect a change in approach, and in this case a change in tone as well. Acting Administrator Wheeler has already stated that he puts a premium on transparency and that transparency helps the Agency so people know and understand what we are doing," EPA public affairs official John Konkus told POLITICO.

"I think you can take that mindset and apply it across the board when it comes to how EPA will be communicating with the media and the public going forward," he added. "A lot of the specifics in regards to how we will change the approach to calendars, schedules, briefings, etc. will be worked out over the coming days and weeks, but a change is coming."

In a shift from Pruitt, Wheeler plans to announce travel and speeches in advance and publish his calendars "frequently," Konkus said. And top EPA officials also plan more media briefings on policy announcements.

To view online [click here](#).

[Back](#)

Pruitt leaves behind a long to-do list [Back](#)

By Eric Wolff and Emily Holden | 07/07/2018 06:48 AM EDT

Scott Pruitt has left a lot of unfinished business for his successor.

For all his reputation as a deregulatory crusader — the trait that helped him stay atop the Environmental Protection Agency through months of ethics scandals — Pruitt's efforts to wipe out the Obama administration's environmental rules suffered at least five early setbacks in court.

Now EPA is adopting a more deliberate approach to undoing regulations. And that task might be better suited for new acting Administrator Andrew Wheeler, the former coal lobbyist who will run EPA at least until a permanent nominee is confirmed.

"Andy has been around these issues his whole professional career," said Jeff Holmstead, an energy lawyer and the head of EPA's air office under President George W. Bush. Wheeler "went to EPA right out of grad school, he's been working on EPA issues a long time, he comes with a more sophisticated understanding of these issues."

Matt Dempsey, a managing director at FTI Consulting who worked with Wheeler on Capitol Hill, said Wheeler will pursue largely the same policy platform as Pruitt. "I don't think you're going to see a lot of separation there," he said.

Jody Freeman, director of Harvard Law School's environment and energy program who was climate change counselor for the Obama White House, said in a tweet that "the Wheeler for Pruitt swap at EPA could be on net negative" for environmentalists.

"Wheeler is a sophisticated insider who will not make Pruitt's amateur and corrupt mistakes. Expect an iron deregulatory fist in a velvet glove," she said.

Here are the top ongoing legal and political battles Wheeler will have to tackle:

Climate change

Three federal judges have warned that EPA is running out of time to issue a draft replacement for the Clean Power Plan, the Obama rule aimed at reducing greenhouse gas emissions by spurring states to shift away from burning coal for electricity. The agency is expected to send its proposal to the White House any day now. In the meantime, the U.S. Court of Appeals for the D.C. Circuit has been withholding a decision on legal challenges to the Obama-era rule filed by red states and industry groups.

Wheeler has opposed Obama's efforts to cut carbon pollution — but, unlike Pruitt, is not expected to pursue a public debate on the soundness of the underlying climate science. He could face pressure from the conservative activists and coal executives who had lobbied Pruitt to attack a 2009 EPA legal conclusion that obligated the agency to regulate climate change — but other Republicans fear such an effort could prove politically embarrassing.

Waters and wetlands

Pruitt arrived at EPA looking to achieve one victory in a matter of months: repealing and replacing the Waters of the U.S. rule, a 2015 regulation on waterways and wetlands that has drawn criticism from the farming, mining, development and energy industries. But just the repeal has been stalled for nearly a year.

The Obama administration produced more than 400 pages of scientific research to support its years-long effort to write the rule. Pruitt initially tried to repeal it with an 11-page proposal insisting that he had the discretion to reverse course — even if the facts and circumstances haven't changed. Last week, EPA appeared to acknowledge the shortcomings of that approach and issued a hefty set of additional paperwork that must go through its own 30-day comment period. EPA also sent its draft replacement rule to the White House for interagency review last month.

The replacement would vastly restrict the types of streams and wetlands that enjoy protection under the Clean Water Act. The repeal fight is expected to head eventually to the Supreme Court, where it recently received a major leg up thanks to the retirement of Justice Anthony Kennedy, who cast the deciding vote in a turning-point 2006 decision on the issue.

Car rules

Wheeler faces an all-out war with blue states over EPA's expected proposal to freeze tough vehicle standards. California can set its own mileage rules, which other states can adopt, but the Trump administration reportedly may try to claw back that authority. Californians hope Pruitt's departure will enable some kind of negotiated truce — but they might be looking in the wrong place. Sources say Heidi King, deputy administrator of the Department of Transportation's National Highway Traffic Safety Administration, is in the driver's seat on fuel

economy rules, and King sees lowering the requirements as a key part of Trump's deregulatory agenda. EPA and NHTSA have not yet released formal proposals.

Ethanol

Wheeler inherits the bad blood that erupted during the Pruitt era between EPA and the corn interests that are key to Trump's Midwestern electoral dominance.

Pruitt achieved one rare accomplishment: For two years in a row, he managed to put the annual rule setting biofuel mandates on schedule. But his expansion of "economic hardship waivers" for small refiners infuriated ethanol interests. Wheeler will have to use all his Hill experience to convince Iowa Republican Sens. Chuck Grassley and Joni Ernst that EPA can fix the problems Pruitt created — while simultaneously keeping oil refiners, who have gotten their way so far, happy enough that they or their allies, like Sens. Ted Cruz or Pat Toomey, don't march into the Oval Office and demand changes.

"The RFS is the law of the land. I fully support the program," Wheeler said at his confirmation hearing last year.

Ozone pollution

Another major rollback in limbo is EPA's 2015 rule creating more stringent smog, or ozone, standards, which the Obama administration had hailed as a major advance for public health.

States challenging the move had agreed to delay their lawsuit while EPA contemplated whether it could withdraw or alter the rule, but a court on Monday decided EPA had taken too long and restarted the case. Wheeler might decide to take up the gauntlet, or he could let the legal battles run their course.

Behind the scenes, EPA has granted air pollution exemptions to oil and gas producers, such as those operating in an area of Utah that aren't meeting ozone standards meant to prevent asthma and other respiratory illnesses, POLITICO reported.

The lesser-known climate treaty

EPA will play a key role in one unlikely sounding debate: Whether the Trump administration will embrace an Obama-era treaty meant to reduce the use of Earth-warming coolants called hydrofluorocarbons, found in refrigerators and air conditioning. Wheeler criticized the 2015 Paris climate deal, which Pruitt last year helped persuade Trump to exit, but he does not appear to have weighed in on the HFC treaty Obama endorsed in 2016. The Trump administration has not said whether it will submit the HFC treaty for Senate ratification, a decision Wheeler may help shape.

The D.C. Circuit struck down EPA's previous attempt to write a rule to implement the treaty, so it will be up to Wheeler and the agency's lawyers to decide whether EPA can develop another implementing regulation under a different law — or should wait for Congress to pass new statute.

The treaty has significant support from U.S. coolant manufacturers who will produce the world's supply of next generation coolants, but conservative organizations like the Competitive Enterprise Institute oppose it as new red tape.

Reshaping EPA

Aside from the sweeping rollbacks Pruitt has pursued, he has also fundamentally restructured the way the agency works, barring EPA from considering science that doesn't have publicly available data, installing

conservative state and industry representatives on advisory boards and limiting the health benefits that the agency can count in considering regulations. Those changes, along with a sharp decrease in the agency's workforce, leave an agency far less likely to issue standards to curb industry pollution, environmental advocates say. EPA enforcers are aiming to issue fewer penalties and instead work with companies to comply with rules, top officials have said. Wheeler will have broad authority over those changes.

Annie Snider contributed to this report.

To view online [click here](#).

[Back](#)

Pruitt ethics probes linger even after resignation [Back](#)

By Anthony Adragna | 07/06/2018 07:06 PM EDT

Scott Pruitt may be out of the EPA, but that doesn't mean his troubles are over.

Pruitt is still facing more than a dozen federal probes from his tenure as EPA administrator, and EPA's watchdog and congressional investigators are promising to continue looking into his long list of ethical woes and lavish spending allegations. Those investigations have already prompted Pruitt to [turn to an outside attorney](#) for advice and set up a legal defense fund before his resignation.

EPA's inspector general expects to finish and release as many as four separate reports on Pruitt this summer, according to a spokesman.

An investigation into Pruitt's [security detail](#) may wrap up as early as this month, and the watchdog expects to complete work in August on its [audit](#) of Pruitt's 2017 travel and [the use](#) of a loophole in the Safe Drinking Water Act to give raises to close aides. And a separate probe into [law enforcement pay](#) will likely conclude in two to three months, according to spokesman Jeffrey Lagda.

Lagda cautioned that the timeframes for the investigations are only estimates, since the work is ongoing and the dates can change. It's also not entirely clear yet how Pruitt's decision Thursday to resign may affect the ongoing work.

"[The Office of Inspector General] is still in the process of reviewing and analyzing the current situation related to Pruitt's resignation," Lagda told POLITICO.

There is no estimated completion date yet for the IG's [investigation](#) into whether EPA is properly preserving text messages and emails that may have been sent to Pruitt's non-public accounts, as well as its responsiveness to public records requests, according to Lagda. The IG also cannot compel Pruitt, as a former federal employee, to meet with them.

Those IG reports could provide fresh ammunition for Pruitt's critics, but if they find evidence that laws were broken, they must hand the evidence to the Attorney General to decide whether to prosecute.

Pruitt confirmed in May that he had formed a legal defense fund, though Democrats and outside groups [raised concerns](#) about the possible conflicts of interest that could arise if companies or industries made donations to that fund, and whether its operation would be sufficiently transparent.

Five House Democrats later asked the Justice Department and FBI to open a criminal investigation into whether Pruitt's activities were used to enrich himself and his family — such a probe would not necessarily be disclosed publicly.

Other investigations continue as well. The U.S. Office of Special Counsel is looking into allegations Pruitt retaliated against employees who questioned his spending and management habits. And the Washington Post reported on Thursday that the White House Office of Management and Budget has determined the \$43,000 private phone booth Pruitt installed in his office violated the law. The Government Accountability Office has previously said the purchase was illegal.

Meanwhile, the House Oversight Committee continues with its probe of Pruitt's actions despite his resignation. A committee aide told POLITICO the panel expects to interview another former Pruitt aide, former Trump EPA political staffer-turned-whistleblower Kevin Chmielewski, soon.

And the panel's Democrats sent a clear signal they want to follow the revelations wherever they may lead and that Pruitt's departure doesn't change anything.

"We regularly investigate issues long after the person has left office and it should continue until we get all the docs and discover all the things Pruitt did, and who else he did it with, what was the impact, and how to prevent it from happening in the future," a Democratic aide told POLITICO.

Pruitt's resignation came as House Oversight Committee Democrats released new transcripts from interviews with some of the former administrator's closest aides that confirmed aspects of many of the recent allegations against him.

Three aides, including chief of staff Ryan Jackson, acknowledged removing many meetings from his calendars they deemed "personal" and that could have been politically controversial, including retroactively removing a reference to a dinner with Cardinal George Pell after Pell's arrest on sexual abuse charges.

"I did that because there were — and there have been since — just personal dinners or personal meetings which he has had that if it doesn't relate to EPA business, I don't think it's necessary to put it on the schedule," Jackson told Oversight Committee staff, according to the transcript.

Another former aide, policy adviser Samantha Dravis, said she helped Pruitt's wife, Marlyn, seek employment opportunities during work hours by tapping into her connections to conservative organizations. But she said Pruitt's push for his wife to land a \$250,000 a year post given her limited work experience was too much — even for staunch Pruitt supporters like the Federalist Society. Dravis said she ultimately refused to contact certain organizations and expressed concern doing so would violate the Hatch Act.

"I was explicitly asked by Administrator Pruitt to assist Marlyn with obtaining this employment," Dravis said.

Dravis also said Pruitt originally hoped he would be named attorney general rather than Jeff Sessions, and had "one or two" discussions with her about his ambitions for the post after he became head of the EPA. She said he "hinted" that he had discussed the matter with Trump but didn't reveal further details.

To view online [click here](#).

[Back](#)

Perry warns of looming New York energy 'reckoning' [Back](#)

By Matt Daily | 06/28/2018 04:57 PM EDT

Energy Secretary Rick Perry today suggested that the federal government should consider preventing New York state from blocking new natural gas pipelines, echoing the national security argument he has put behind his efforts to bail out struggling coal and nuclear power plants.

Perry, who has [criticized](#) New York Gov. Andrew Cuomo for years, didn't mention the Democratic governor by name, but said political opposition to new gas infrastructure had left the state vulnerable to potential devastating power outages.

"I think we need to have a conversation as a country, is that a national security issue that outweighs political concerns in Albany, New York?" he said.

New York has blocked the expansion of the Constitution Pipeline by denying the project the water permits it needs to extend the pipeline that would carry gas from Pennsylvania.

Perry laid out a scenario to an audience at the World Gas Conference where a major winter storm and cyberattack on the power grid hit the state at the same time.

"And people literally have to start making the decision about 'Do I keep my family warm? Do I keep the lights on?' Does the financial center of New York go dark? Do the hospitals shut down?" he said.

"At that particular point in time, the political leadership of that state that is keeping pipelines from being built — for strictly political purposes — are going to have real reckoning. I wouldn't want to be the governor of that state faced with that situation," he said.

To view online [click here](#).

[Back](#)

8 NDAA conference issues to watch [Back](#)

By Connor O'Brien and Gregory Hellman | 07/08/2018 04:07 PM EDT

Leaders of the House and Senate Armed Services Committees return to Capitol Hill this week to begin reconciling their competing versions of annual defense policy legislation.

Lawmakers are under a tight self-imposed deadline to finish their negotiations on the National Defense Authorization Act, [H.R. 5515 \(115\)](#), by the end of July. To do that, conferees from both parties must iron out their differences over dozens of issues in just few weeks.

Conferees have a slate of perennial differences to reconcile, including the size of the military, how many fighters to buy and how many new Navy ships to build, the structure of military space units and various proposals to rein in Pentagon bureaucracy.

"I think actually we're pretty close," Rep. Adam Smith of Washington State, the top Democrat on the House Armed Services Committee, said in a recent interview on C-SPAN's "Newsmakers." "There's just [an] issue here, issue there in terms of where exactly we spend the money."

But some of the thorniest issues they face aren't even in the Armed Services panels' jurisdiction, including provisions aimed at sanctioning Chinese telecommunication firm ZTE and reforming the Committee for Foreign Investment in the United States, a panel led by the Treasury Department that foreign acquisitions and mergers involving U.S. that may have national security implications.

That's in part because, unlike previous years, lawmakers won't be wrangling over the defense budget topline after congressional leaders from both parties struck a deal earlier this year to boost defense spending.

"...There's a number of issues that aren't actually in the defense jurisdiction — CFIUS being the biggest one — that we'll have to negotiate our way through," Smith said.

Meanwhile, the Senate-backed provision to reinstate sanctions against ZTE is staunchly opposed by the Trump administration.

Here are some of the major issues House and Senate negotiators must hammer out in the coming weeks:

ZTE and Huawei

Both House and Senate defense policy bills include different provisions aimed at limiting the Pentagon and other government agencies from doing business with Chinese telecommunications companies Huawei and ZTE. Military and intelligence officials have warned that technology from the companies with close ties to the Chinese government could be used to spy or to carry out cyber attacks.

The Senate bill would prohibit the Defense Department from procuring goods or services from the two companies, or to extend or renew a contract with them. The House bill would bar all government agencies from doing so.

A more contentious issue for negotiators, however, is a Senate provision that would reinstate sanctions on ZTE. The bipartisan provision, adopted during Senate floor debate, would effectively reverse a deal struck by the Trump administration to ease sanctions on the company in exchange for a \$1 billion fine, changes in its management and embedding a compliance team.

The White House staunchly objected reimposing sanctions on ZTE, arguing the move would undermine the separation of powers. Earlier this month the administration granted a lifeline to ZTE, allowing it to operate through Aug. 1.

CFIUS reform

The Senate attached a bipartisan measure to the defense bill to strengthen the authorities of the Committee on Foreign Investment in the United States. Lawmakers have framed the legislation as part of an effort to blunt the ability of China and other nations to acquire U.S. technologies critical to national security.

The House passed a similar reform package last month, but did not attach it to the NDAA. And while House Chairman Mac Thornberry (R-Texas) has previously cautioned against including provisions in the bill not directly related to the military, defense hawks have pressed to beef up CFIUS. In May, Defense Secretary Jim Mattis called on both House and Senate panels to adopt a foreign investment crackdown as part of the defense bill.

Shipbuilding

While members on both sides of the Capitol are backing the Navy's goal of growing to a 355-ship fleet, the two chambers approached costly shipbuilding efforts differently. The House bill would authorize 13 ships, three more than requested by the Pentagon. The Senate bill, meanwhile, meets the request to procure 10 new ships.

Specifically, conferees are likely to spar over the embattled Littoral Combat Ship. The Navy requested just one LCS. While the Senate bill meets the administration request, the House bill presses for the Navy to buy three LCSs.

The service argued a single LCS, combined with three LCSs funded in both fiscal 2017 and 2018, will keep shipyards viable until a contract is awarded for a new frigate. But lawmakers from Wisconsin and Alabama, home to the two shipyards that build the LCS, are likely to press for more of the ships.

F-35 purchases

The bills differ slightly on procurement of the F-35 Joint Strike Fighter. While the House would authorize 77 of the fighters — matching the Pentagon budget request — the Senate authorizes only 75. Instead, it would realign funding for the extra two aircraft towards sustainment costs, amid concerns that the Pentagon can't afford to maintain the fifth-generation fighter.

Additionally, both the House and Senate would bar the sale of F-35s to Turkey until certain reporting requirements are met. The Senate's bill directs the Pentagon to submit a plan to Congress to remove the NATO ally from the fighter program and expresses the sense that if Turkey purchases Russia's S-400 air defense system from Russia the President should impose sanctions against Turkey.

The House goes further, barring the sale of major defense equipment to Turkey until the Pentagon reports on the impact of Turkey's "provocative" actions.

Troop levels

Both bills would continue to grow the ranks of the military, though at different paces. At issue, as in previous years, is the hefty price tag associated with adding personnel to the military services and whether dollars devoted to more troops could sap readiness.

The House version of the NDAA would grow the active-duty military by 15,600, matching the Pentagon request. The Senate bill, meanwhile, increases troop levels by just under 7,000, which the Armed Services Committee estimates would save approximately \$993 million in the coming fiscal year.

Both panels agree on a 2.6 percent troop pay raise as required by law and requested by the Pentagon.

Pentagon reform

The House and Senate panels again offered competing plans to overhaul Pentagon bureaucracy, save money and speed the weapons acquisitions process. The effort has been a hallmark for both Thornberry and Senate Armed Services Chairman John McCain (R-Ariz.).

The House version includes a series of overhauls to Pentagon administrative and support agencies, known as the "Fourth Estate." It would eliminate the Washington Headquarters Service and seek a 25 percent cut in certain "back office" functions of those non-military agencies.

The Senate-passed bill removes readiness duties from the Pentagon's undersecretary for personnel and readiness and would designate the undersecretary as the Pentagon's chief human capital officer. The Senate NDAA also includes provisions aimed at modernizing the military officer personnel management system to bolster recruitment and retention.

Space

The House and Senate versions of the NDAA take vastly different approaches to a "Space Force."

HASC Strategic Forces Subcommittee leaders Mike Rogers (R-Ala.) and Jim Cooper (D-Tenn.) have championed the new branch, which President Donald Trump ordered last month.

The House is calling for a new space command and Air Force space unit, described as a "foundational step" that could pave the way for the creation of a Space Force in next year's bill. It would also require a Pentagon report on establishing a separate acquisition system for space.

But the Senate remains largely opposed to the idea. The committees are awaiting another report from Deputy Defense Secretary Patrick Shanahan, due next month.

Sage grouse

As in previous years, House and Senate negotiators are likely to tangle over a handful of environmental riders, most notably limiting protections for the greater sage grouse, which House Republicans contend would hamper operations on western training ranges.

The House bill includes a provision, pushed by Natural Resources Chairman Rob Bishop (R-Utah), preventing the greater sage grouse and lesser prairie chicken from being listed under the Endangered Species Act for 10 years and also limits protections for the American burying beetle. The Senate, meanwhile, has largely steered clear of the contentious issue and its bill contains no endangered species provisions.

To view online [click here](#).

Back

Court remands rules for brick kilns to EPA Back

By Emily Holden | 07/06/2018 06:16 PM EDT

The D.C. Circuit Court of Appeals today ruled that EPA failed to correctly analyze the cancer risks of acid gas pollutants from brick kilns in its 2015 rule.

The opinion, filed by Judge David Sentelle, sided with the Sierra Club, Natural Resources Defense Council and other environmental groups, and remanded the rule to EPA.

The court also ruled EPA didn't properly explain how it came up with five of the rule's maximum achievable control technology standards and shouldn't have set alternative MACT floors for brick tunnel kilns.

EPA first regulated brick kilns under the Clean Air Act in 2003, but a court vacated that rule in 2007. A lawsuit by environmental advocates forced EPA in 2015 to issue a new rule, which both industry and green groups challenged.

"Though we agree that the EPA is entitled to deference in determining how to include an ample margin of safety in the health threshold, the question is whether the EPA provided any margin of safety at all," the opinion said.

EPA will now have to either set stronger standards or provide research to back up its claims, said James Pew, an Earthjustice lawyer who argued the case.

"Can EPA just blow off its obligation to control hazardous air pollution because it doesn't know what health effects they cause? The simple answer to that is no," Pew said, noting that there are at least 80 major brick plants around the country.

To view online [click here](#).

[Back](#)

Was this Pro content helpful? Tell us what you think in one click.



Yes, very



Somewhat



Neutral



Not really



Not at all

You received this POLITICO Pro content because your customized settings include: Morning Energy. To change your alert settings, please go to <https://subscriber.politicopro.com/settings>

POLITICOPRO

This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

From: Anna Palmer Jake Sherman Daniel Lippman [politicoplaybook@politico.com]
Sent: 7/7/2018 1:31:56 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: POLITICO Playbook, presented by the U.S. Chamber of Commerce: AP: North Koreans say talks with Pompeo were 'regrettable' and 'very concerning'

[View online version](#) | [Add politicoplaybook@politico.com to your address book.](#)

POLITICO PLAYBOOK

Today's POLITICO Playbook presented by the U.S. Chamber of Commerce

By JAKE SHERMAN (sherman@politico.com; [@JakeSherman](#)), ANNA PALMER (anna@politico.com; [@apalmerdc](#)) and DANIEL LIPPMAN (daniel@politico.com; [@dlippman](#))

[Today's Audio Briefing](#)

DRIVING THE DAY

BREAKING ... AP/SEOUL: "North Korea Foreign Ministry says talks with Pompeo 'regrettable,' accuses U.S. of unilateral demands for denuclearization."

-- **MORE FROM AP:** "The statement says that the United States betrayed the spirit of last month's summit between President Donald Trump and North Korean leader Kim Jong Un by making unilateral demands on 'CVID,' or the complete, verifiable and irreversible denuclearization of North Korea. It says the outcome of the follow-up talks was 'very concerning' because it has led to a 'dangerous phase that might rattle our willingness for denuclearization that had been firm.'" <http://bit.ly/2IZoIIp>

-- **AP's ANDREW HARNIK and MATTHEW LEE in PYONGYANG:** "Secretary of State Mike Pompeo wrapped up two days of talks with senior North Korean officials on Saturday without meeting Kim Jong Un but with commitments for new discussions on denuclearization and the repatriation of the remains of American soldiers killed during the Korean War." <http://bit.ly/2lXyrZD>

-- **REUTERS:** "Pompeo says made progress with North Korea, more work needed" <https://reut.rs/2zhYuEx>

-- **WAP0'S JOHN HUDSON in TOKYO: "Secretary of State Pompeo leaves North Korea with promise of more talks but no tangible breakthrough"** <https://wapo.st/2KWtScU>

-- **CBS NEWS' KYLIE ATWOOD (@kylieatwood):** "Per print pool with Pompeo in NK: @statedeptspox says there has been NO softening in the U.S. positions, although she would not explain why the department no longer uses the phrase 'complete, verifiable, irreversible denuclearization.'"

NEW ... BORDER TALES ... "Trump administration ordered to supply list of young children subjected to separation," by Josh Gerstein and Ted Hesson: "A federal judge on Friday ordered the Trump administration to turn over a list of very young children who may have been separated from parents at the U.S.-Mexico border.

"U.S. District Court Judge Dana Sabraw told a Justice Department attorney to provide by 5 p.m. PDT Saturday a tally of the roughly 100 children under age 5 who were split apart from adults at the border. 'What I'm expecting is a lot of work over the weekend,' he said during a meeting between parties in a lawsuit over family separations.

"The Trump administration faces a Tuesday deadline - imposed by Sabraw last week - to reunite the young children with their parents. The administration contends it needs more time to determine which children have been separated from parents and to perform adequate security checks to ensure the safety of the child." <https://politi.co/2tYojnO>

REPORTER'S NOTEBOOK ... FRIDAY'S NEWS that the Cook Political Report was moving **REP. DAVE BRAT'S (R-VA.)** seat from lean Republican to toss up reminded us of a conversation we recently had with the man who toppled Eric Cantor. Brat's view on the political climate is not dissimilar from many Republicans these days: the press and pundits were wrong before, so they're probably wrong again. Many Republicans think that's a dangerous way of thinking in what they view as a tough political climate.

BRAT represents a district that has long been considered a cradle of conservatism in Virginia. Republicans involved in House races say if Brat is truly in trouble, the House is probably gone. Here's what Brat had to say about the political climate just before the chamber broke for the July 4 recess:

"In my district? Well that's what the press said about every Democrat race. Go get the press clips. I was going to lose all three. Always from the press. I was never going to win. So if I listen to you guys I would've lost three times. Every press account, every political expert that

the press pulls out is always from the left, because they're from academia. Shocker." **Note:** *Brat comes from the world of academia too.*

"I think I'll win, based on just keeping my word and the economic issue is going to be it. And you can check my -- I think I said that last time, the press said no. Right? ...

"I'm going to take it utterly seriously because the stakes are so high. Right? But the Democrat candidates always say they're running as moderates and they're not. Right? And that's what the press -- the press doesn't ask the Democrat candidates where are you at on private property rights. They're kind of fundamental issues in America."

TRADE WARS ...

-- **THE BIG QUESTION: "Trump Starts a Trade War, but the Path to Success Remains Unclear,"** by NYT's Ana Swanson and Neil Irwin: "The United States and China hit each other with punishing tariffs on Friday as the two nations tipped into a long-feared trade war that is only expected to escalate.

"President Trump has said that trade wars are 'easy to win.' Now, as he opens a global skirmish with allies and adversaries alike, the question is whether he has a plan to achieve the results he wants or whether he is heading into a costly and futile clash without resolution. The president appears to be betting that threatening trading partners like China, the European Union, Mexico and Canada with tariffs will eventually force them to bend to the United States." <https://nyti.ms/2NwDmNC>

-- **WSJ'S BOB DAVIS: "U.S. Economic Strength Gives Trump Leeway in Trade Fight With China":** "The U.S. economy's strength is emboldening the Trump administration to play hardball in its trade offensive against China. Tariffs tend to be economic downers with an impact like sales taxes, which push up costs for consumers and businesses and slow growth. But so far it is tough to argue that the spat with China is having a broad macroeconomic impact." <https://on.wsj.com/2MUUV8Z>

***** **A message from the U.S. Chamber of Commerce:** There are no winners in a global trade war. Here's a breakdown of the states and industries hardest hit by retaliatory tariffs on American exports. www.TheWrongApproach.com. *****

NEXT UP ... TRUMP OVERSEAS ... "Ahead of NATO and Putin summits, Trump's unorthodox diplomacy rattles allies," by WaPo's Greg Jaffe, Josh Dawsey and Carol D. Leonnig: "During an April visit by French President Emmanuel Macron to the White House, a frustrated Trump was sharply critical of both British Prime Minister Theresa May and

German Chancellor Angela Merkel, U.S. and European officials said. Asked about his comments, the president in a statement to The Washington Post said that 'immigration is destroying Europe as we know it and it is very sad to be witness to what is happening.' ...

"Shortly after he took office, Trump began passing out his personal cellphone number to a handful of foreign leaders, and in April 2017, White House aides were startled when officials in Canada issued a standard summary of a conversation between Prime Minister Justin Trudeau and Trump. In it, Trudeau complained of 'unfair duties' and 'baseless' claims about trade by Trump administration officials.

"No one at the White House was aware the call had taken place. 'We had no idea what happened,' a senior U.S. official said. ... After [a typical foreign leader] call, a transcript is distributed to key aides, who will issue a public readout. In this instance, U.S. officials had to rely on Trump's memory. A terse public readout described 'a very amicable call.' After the call, White House aides urged Trump to route all conversations with foreign leaders through the Situation Room, as required under federal records law ...

"The president rarely reads his nightly briefing book, which focuses on issues likely to come up in meetings, a second senior U.S. official said. To slim down Trump's workload, aides have sometimes put the most critical information in a red folder."

<https://wapo.st/2KYY4Ea>

Good Saturday morning. The president, who is spending the weekend in Bedminster, New Jersey, has nothing on his public schedule.

THE LATEST ON JIM JORDAN ... RACHAEL BADE and JOHN BRESNAHAN: "'A cesspool of deviancy': New claims of voyeurism test Jordan denials": "New allegations in the Ohio State University sexual abuse scandal are threatening to intensify the political firestorm facing its onetime assistant wrestling coach, powerful GOP Rep. Jim Jordan.

"A half-dozen ex-wrestlers told POLITICO they were regularly harassed in their training facility by sexually aggressive men who attended or worked at the university. The voyeurs would masturbate while watching the wrestlers shower or sit in the sauna, or engage in sexual acts in the areas where the athletes trained, the former wrestlers said.

"Larkins Hall, the building that housed athletic teams, became such a well-known target that people who frequented it at the time have reminisced in anonymous postings online how easy it was to ogle naked members of the wrestling team.

"The situation was so egregious that former wrestling head coach Russ Hellickson would at times have to physically drag the gawkers out of the building, several sources familiar with his actions at the time said. Hellickson also pleaded with the university multiple times to move their athletes to a private facility, the sources said. Jordan served as Hellickson's No. 2, and the coach has been described as Jordan's mentor.

"The accusations could exacerbate Jordan's troubles. He was the wrestling team's assistant coach from 1986 to 1994 and has adamantly denied knowledge of any sexual abuse." <https://politi.co/2zjV6sK>

-- **JORDAN** spoke with **FOX NEWS' BRET BAIER** on **"SPECIAL REPORT"** Friday night: "It's false. I mean, I never saw, never heard of, never was told about any type of abuse. If I had been, I would've dealt with it. Our coaching staff -- we would've dealt with it. These were our student athletes. A good coach puts the interest of his student athletes first. We would've dealt with it if we would've known about anything that happened. If in fact there are victims, they deserve justice. There's an investigation going on. We're going to, I think, meet with them next week. We want the investigation to get to the truth. That's what we need here, the truth."

-- **ON MIKE DISABATO**, who says Jordan knew of "deviant" behavior: "Conversations in a locker room are a lot different than allegations of abuse or reported abuse to us. I've been on the sport of wrestling my entire life. Kids wrestling, junior high wrestling, high school, University of Wisconsin wrestling, coach at Ohio State, I've got two boys who wrestled for the Badgers, I've got four nephews who wrestled Ohio State, I've got another nephew who wrestles for Iowa.

"Conversations in a locker room are different than people coming up and talking about abuse. No one ever reported any abuse to me. If they had, I would've dealt with it. And what bothers me the most is the guys that are saying this thing, I know they know the truth. I know they do. ... Mike DiSabato has a vendetta against Ohio State. He lost a licensing agreement with Ohio State. He is out to get Ohio State. He has a vendetta against our family. He was arrested just five months ago."

JORDAN also said the "timing is suspect" since this story came out after he questioned Rod Rosenstein and has floated running for speaker of the House.

SCOTUS REPORT ...

-- **JOSH GERSTEIN: "Teen immigrant abortion case could be hurdle for Kavanaugh's Supreme Court bid":** "One of the leading contenders for the Supreme Court, D.C. Circuit

Judge Brett Kavanaugh, could see his chance at the nomination hinge on his handling of a legal battle last year over a 17-year-old immigrant's request for an abortion.

"To Kavanaugh's backers, his role in the legal showdown that played out over a couple of weeks last October exhibits the kind of judicial restraint conservatives have long called for from members of the bench.

"However, for Kavanaugh's critics, his actions in the teen-immigrant abortion case exude a tendency toward caution and compromise that could signal an unwillingness to make waves on the Supreme Court — and they worry that hesitancy could extend to reversing longstanding precedents, such as Roe v. Wade." <https://politi.co/2J2aEkg>

PRUITT'S SWAN SONG ... NYT'S LISA FRIEDMAN, ERIC LIPTON and CORAL DAVENPORT: "Scott Pruitt's Rocky Relationship With His Aides Set the Stage for His Fall": "Mr. Pruitt's fall from the E.P.A. is a story of his diminishing relationship with many of his closest loyalists. Instead of focusing on making history by reshaping American environmental policy, they found themselves not only defending their actions before investigators, but also calling out Mr. Pruitt in ways that exposed him to public scrutiny and ultimately led to his downfall." <https://nyti.ms/2MWIYZI>

-- **"'Super Polluting' Trucks Receive Loophole on Pruitt's Last Day,"** by NYT's Eric Lipton: "In the final hours of Scott Pruitt's tenure as administrator, the [EPA] moved on Friday to effectively grant a loophole that will allow a major increase in the manufacturing of a diesel freight truck that produces as much as 55 times the air pollution as trucks that have modern emissions controls." <https://nyti.ms/2lYhWwg>

SPOTTED (per Emily Holden): Scott Pruitt at the EPA on Friday having aides stop by so he could say thank you. Staffers didn't think he would be there after resigning, but he showed up anyway.

DRIP, DRIP, DRIP ... "Pruitt ethics probes linger even after resignation," by Anthony Adragna: "Scott Pruitt may be out of the EPA, but that doesn't mean his troubles are over. Pruitt is still facing more than a dozen federal probes from his tenure as EPA administrator, and EPA's watchdog and congressional investigators are promising to continue looking into his long list of ethical woes and lavish spending allegations. Those investigations have already prompted Pruitt to turn to an outside attorney for advice and set up a legal defense fund before his resignation.

"EPA's inspector general expects to finish and release as many as four separate reports on Pruitt this summer, according to a spokesman." <https://politi.co/2KUQY3s>

THE 30,000-FOOT TAKE -- "Shift at EPA shows technocrats are replacing big-personality Cabinet members," by WaPo's Juliet Eilperin, Josh Dawsey and Brady Dennis: "Scott Pruitt was known inside the [EPA's] headquarters for sipping \$10 organic juice infused with kale, sporting Ferragamo shoes with his Hickey Freeman suits, and making biblical references in texts and conversations with aides.

"Andrew Wheeler, on the other hand, is a policy wonk who keeps his religious views private and collects Coca-Cola memorabilia. That contrast has come to the fore as Wheeler prepares to take the helm of the agency on Monday in the wake of Pruitt's resignation amid allegations of overspending and ethical misconduct.

"It speaks to the shift that has been underway — in fits and starts — as Trump's Cabinet transitions from a team stocked with high-profile personalities who joined in the early days of the administration to one with a growing number of technocrats."

<https://wapo.st/2KH8HPW>

KNOWING ANDREW WHEELER ... "New EPA chief in 2016: Trump's a 'bully,'" by Anthony Adragna and Eric Wolff: "Scott Pruitt's replacement as leader of the EPA once dismissed Donald Trump as a 'bully' with so-so business skills — the kinds of slights the president rarely forgets. '[A]s a businessman, he really hasn't been that successful. He is a successful PR person, but not a businessman,' Deputy EPA Administrator Andrew Wheeler, then an environmental adviser to Sen. Marco Rubio's presidential campaign, wrote in a now-deleted Facebook post in February 2016. '[H]e has more baggage than all of the other Republican candidates combined.' And, Wheeler wrote at the time, 'he is a bully. This alone should disqualify him from the White House.'" <https://politi.co/2ucYdwK>

THE INVESTIGATIONS ...

-- "Shifting Strategy, Trump's Lawyers Set New Conditions for Mueller Interview," by NYT's Michael Schmidt and Maggie Haberman: "President Trump's lawyers set new conditions on Friday on an interview with the special counsel and said that the chances that the president would be voluntarily questioned were growing increasingly unlikely.

"The special counsel, Robert S. Mueller III, needs to prove before Mr. Trump would agree to an interview that he has evidence that Mr. Trump committed a crime and that his testimony is essential to completing the investigation, said Rudolph W. Giuliani, the president's lead lawyer in the case.

"His declaration was the latest sign that the president's lawyers, who long cooperated quietly with the inquiry even as their client attacked it, have shifted to an openly combative stance." <https://nyti.ms/2u6OdVI>

-- "Ex-Playmate Files Suit Against GOP Donor Elliott Broidy Over Hush-Money Deal," by WSJ's Michael Rothfeld and Joe Palazzolo: "A former Playboy centerfold model has sued a prominent Republican fundraiser, her former lawyer and the lawyer for former adult-film star Stephanie Clifford in connection with the breakdown of a \$1.6 million hush-money agreement, according to court documents filed Friday. At issue in the lawsuit filed under seal by Shera Bechard in Los Angeles County Superior Court against Elliott Broidy, a Los Angeles-based GOP fundraiser and venture capitalist, is their agreement from late last year to not disclose their affair." <https://on.wsj.com/2ziZDvt>

-- "Manafort proposes moving 1st trial to Roanoke," by Josh Gerstein: "Lawyers for President Donald Trump's former campaign chairman Paul Manafort have asked that his upcoming trial on bank and tax fraud charges be moved from Alexandria to Roanoke, Virginia, citing intense negative publicity surrounding his prosecution by special counsel Robert Mueller." <https://politi.co/2ugERHc>

-- "Manafort bank fraud trial does have Trump campaign connection, Mueller's team says," by CNN's Katelyn Polantz: "Prosecutors for special counsel Robert Mueller intend to present evidence at the trial of former Trump campaign chairman Paul Manafort that a banking executive allegedly helped Manafort obtain loans of approximately \$16 million while the banker sought a role in the Trump campaign. ... 'The government intends to present evidence that although various Lender D employees identified serious issues with the defendant's loan application, the senior executive at Lender D [previously identified as the Federal Savings Bank] interceded in the process and approved the loan,' according to the filing from Mueller's team." <https://cnn.it/2KUkvu9>

IF YOU THOUGHT THE DERSHOWITZ COVERAGE WAS OVER, YOU WERE WRONG!

... NYT'S JEREMY PETERS on Island in **CHILMARK, MASSACHUSETTS:** **"Alan Dershowitz Is Enjoying This:** In an interview with The Times, Mr. Dershowitz talks about McCarthyism (Martha's Vineyard-style) and why nuance doesn't exist in politics anymore": **"'You reject the label 'Trump supporter,' don't you? 'Absolutely. I'm a Hillary Clinton liberal Democrat who's trying hard to restore Congress to the Democrats, who will help finance Democratic candidates all over the country. I'm a liberal Democrat. I haven't changed one iota in 50 years. I am not a Trump supporter. I'm a supporter of civil liberties. Calling me a Trump supporter is like calling me a communist supporter in the 1950s. I was not a communist supporter. I defended the communists' right to speak and to teach.**

"And here, you're defending Trump's right to ..." 'To be treated fairly. Not to have it considered a crime when you fire, when you exercise your Article II powers under the Constitution.'" <https://nyti.ms/2L04x1y>

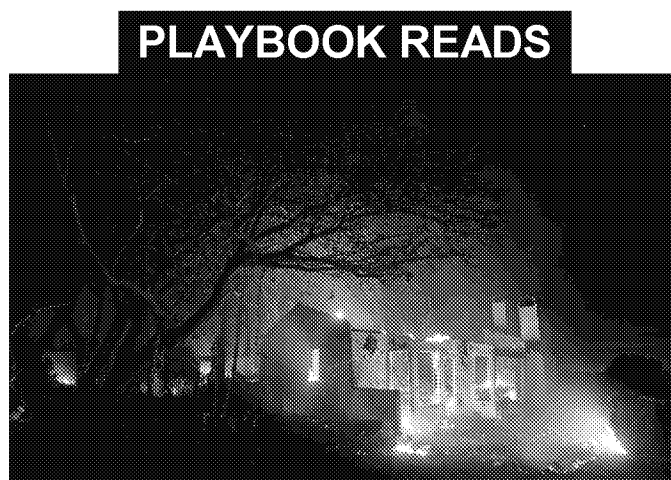


PHOTO DU JOUR: Flames consume a home on N. Fairview Ave. as the Holiday fire burns in Goleta, Calif., on July 7. The blaze has destroyed multiple homes. | Noah Berger/AP Photo

WASHINGTON INC. -- "The one big winner of the Obamacare wars," by Joanne Kenen: "The Trump-era attack on the Affordable Care Act has left the nation's health system plagued with uncertainties: Will 'Obamacare' insurance survive? Can independent hospitals make it? What's next for doctors? And will patients ever really get 'affordable' care? But one certainty is prevailing: No matter what the outcome, it will be a bonanza for health-care consultants.

"Health care, as the current president famously noted, is complicated — and the past decade of change has generated an immense new market for consultants, advisers, and a whole universe of ancillary experts who don't practice medicine but promise to help navigate a landscape that seems to change every six weeks." <https://politi.co/2lYDpoT>

-- "Trump Administration Expected to Suspend ACA Program Related to Insurer Payments," by WSJ's Stephanie Armour and Anna Wilde Mathews: "The Trump administration is expected to suspend an Affordable Care Act program that plays a key role in the health law's insurance markets, a move that could deal a financial blow to many insurers

that expect payments. The suspension of some payouts under the program, known as risk adjustment, could come in the wake of a recent decision by a federal judge in New Mexico, who ruled that part of its implementation was flawed and hadn't been adequately justified by federal regulators, people familiar with the plans said." <https://on.wsj.com/2MX8u86>

FINALLY! -- "Twitter is sweeping out fake accounts like never before, putting user growth at risk," by WaPo's Craig Timberg and Elizabeth Dwoskin: "Twitter has sharply escalated its battle against fake and suspicious accounts, suspending more than 1 million a day in recent months, a major shift to lessen the flow of disinformation on the platform, according to data obtained by The Washington Post. The rate of account suspensions, which Twitter confirmed to The Post, has more than doubled since October ... Twitter suspended more than 70 million accounts in May and June, and the pace has continued in July ... The aggressive removal of unwanted accounts may result in a rare decline in the number of monthly users in the second quarter." <https://wapo.st/2MXtaNf>

***** **A message from the U.S. Chamber of Commerce:** As of this week, approximately \$75 billion worth of U.S. exports will be subject to retaliatory tariffs. Escalating tit-for-tat trade actions promise to raise costs on American businesses and consumers. See how your state will be impacted at www.TheWrongApproach.com. *****

K-STREET FILES - TRUMP ALUMNI: "AT&T Hires Ex-Tillerson Aide for D.C. Office," by WSJ's Drew FitzGerald: "AT&T Inc. has hired former State Department chief of staff Margaret Peterlin to a senior government-affairs role after a shakeup reshaped the company's Washington office. Ms. Peterlin, who served during former Secretary of State Rex Tillerson's tumultuous 13-month tenure, is now the company's vice president of global external and public affairs, according to a letter sent to AT&T employees last month." <https://on.wsj.com/2J1t7NK>

K-FILE - "Democrat running to replace Paul Ryan in Wisconsin has history of arrests, including driving under the influence," by CNN's Nathan McDermott: "A Democrat from Wisconsin running to replace House Speaker Paul Ryan in Congress was arrested and pleaded guilty to driving while intoxicated in 1998, in addition to eight other arrests, according to documents obtained by CNN. Two of Randy Bryce's arrests were more recent -- in 2011 and 2018 -- while protesting the policies of Ryan and Wisconsin's GOP Sen. Ron Johnson, but the majority of Bryce's arrests stem from a single incident of driving under the influence, including three times for driving with a suspended license." <https://cnn.it/2zp6lzQ>

CLICKER - "The nation's cartoonists on the week in politics," edited by Matt Wuerker - **12 keepers** <https://politi.co/2NxIukv>

GREAT WEEKEND READS, curated by Daniel Lippman:

-- **"Academics Gathered to Share Emoji Research, and It Was [Fire Emoji],"** by Rielle Pardes in Wired - per ALDaily.com's description: "On Instagram, half of all comments include an emoji. On Messenger, five billion are sent and received every day. Are emoji a universal language? Or are they destroying language?" <http://bit.ly/2KQN92v>

-- **"'Nothing to worry about. The water is fine': how Flint poisoned its people,"** by Anna Clark in The Guardian: "When the people of Flint, Michigan, complained that their tap water smelled bad and made children sick, it took officials 18 months to accept there was a problem." <http://bit.ly/2KQXXup>

-- **"The Pain We Still Need to Feel,"** by Slate's Jamelle Bouie in Montgomery, Ala.: "The new lynching memorial confronts the racial terrorism that corrupted America—and still does." <https://slate.me/2NcHnGL>

-- **"A Muslim Among Israeli Settlers,"** by Wajahat Ali in The Atlantic's June issue: "What happens when a Pakistani American writer goes deep into the West Bank?" <http://bit.ly/2KjGiiV> ... **Video** <http://bit.ly/2MzlvnZ>

-- **"Did Satoshi Nakamoto Write This Book Excerpt? A Wired Investigation,"** by Garrett Graff in Wired: "As skeptics in the cryptography community have repeatedly pointed out, the true Satoshi ought to have access to the cryptographic keys that control the first bitcoins—coins that have stayed put for a decade. If someone purporting to be Nakamoto were to move one of those coins to a different address or sign something with keys that only Satoshi has, that would be a pretty good form of verification." <http://bit.ly/2uasDQ9>

-- **"Xi Jinping"** -- HBO's "Last Week Tonight with John Oliver": "Chinese president Xi Jinping is amassing an alarming amount of political power. If only his propaganda videos made the idea of unrestricted authority seem as troubling as the concept of singing children." **Video** <http://bit.ly/2zguVTP>

-- **"Who Really Stands to Win from Universal Basic Income?"** by Nathan Heller in The New Yorker, which discusses the new books "Give People Money: How a Universal Basic Income Would End Poverty, Revolutionize Work, and Remake the World," by Annie Lowrey and "Fair Shot: Rethinking Inequality and How We Earn," by Chris Hughes: "It has enthusiasts on both the left and the right. Maybe that's the giveaway." <http://bit.ly/2JoF8Di> ... **Lowrey -- \$26 on Amazon** <https://amzn.to/2ucB6Ce> ... **Hughes -- \$14.70 on Amazon** <https://amzn.to/2KZYj1J>

-- **"The Eugenicist Doctor and the Vast Fortune Behind Trump's Immigration Regime,"** by Brendan O'Connor in Splinter - per Longform.org's description: "On the eugenicist and the Mellon family heiress who built the anti-immigrant policy agenda that Trump is now implementing." <http://bit.ly/2JoWMqx>

-- **"Israeli intelligence firm targeted NGOs during Hungary's election campaign,"** by Politico Europe's Lili Bayer: "Between December 2017 and March 2018, Hungarian NGOs and individuals connected to American-Hungarian businessman George Soros were contacted by [Black Cube] agents using false identities who secretly recorded them. The recordings, which began appearing in the Jerusalem Post and Hungarian government-controlled daily paper Magyar Idők three weeks before Hungary's election, were used by Prime Minister Viktor Orbán to attack independent civil society organizations during the last days of the campaign. Orbán's right-wing Fidesz party went on to win in a landslide." <https://politi.co/2MSiXBF>

-- **"100 million Americans have chronic pain. Very few use one of the best tools to treat it,"** by Vox's Brian Resnick: "Chronic pain often has no physical cause. Psychotherapy can reduce the suffering." <http://bit.ly/2lYiuCz>

-- **"Concentration Camp,"** by Dr. X in The Atlantic's Sept. 1939 issue - per TheBrowser.com's description: "A German correspondent describes his imprisonment in Sachsenhausen concentration camp in 1938 along with several thousand other 'non-Aryans'. The Holocaust was yet to begin, but the elements of it, material and human, were visibly falling into place. 'I have been asked repeatedly where the men are procured who torment the inmates, often with sadistic lust. There are a great number among them who are glad to use their instincts without check against defenseless people.'" <http://bit.ly/2KOUBLL>

-- **"Can Andy Byford Save the Subways?"** by William Finnegan in The New Yorker - per Longreads.com's description: "The new president of the New York City Transit Authority is smart, seems almost unfailingly polite, and is very English. Whether that's enough to enable him to wrangle the system he's been tasked with fixing remains to be seen. William Finnegan paints a deft portrait of Andy Byford settling into his new job and getting his C train legs." <http://bit.ly/2KC1j8G>

-- **"The Tunnel That Could Break New York,"** by Michael Grunwald in POLITICO Magazine's July/August issue: How politics, and Donald Trump, turned America's most important repair job into a \$30 billion grudge match." <https://politi.co/2MQCySK>

PLAYBOOKERS

TRANSITIONS -- Caitlin Girouard starts next week as campaign manager for her old boss Sean Patrick Maloney's campaign for N.Y. attorney general. Friday was her last day as communications director for Sen. Amy Klobuchar (D-Minn.). **Kirsten Hartman** is taking over Klobuchar's press shop.

BIRTHWEEK (was yesterday): NRSC political director Sarah Morgan ... Kara Gainer of the American Physical Therapy Association, who celebrated at RPM last night (hat tip: Kristina Weger)

BIRTHDAYS: Michelle Kwan (h/t Elrod) ... Dick Armey is 78 ... CAP's Rachel Rosen ... author David McCullough is 85 ... Luther Lowe, SVP of public policy at Yelp ... Bill Lord ... Jason Raymond ... Nia-Malika Henderson, CNN senior political reporter ... Rep. Judy Chu is 65 (D-Calif.) ... Madelyn Beck ... Rachael Leman of CARE Action ... Amanda Maddox, comms director for Sen. Johnny Isakson (R-Ga.) ... Susan Pelter ... Julie Xie ... Terry Camp ... Eleanor Clift ... Nikki Harris ... Molly Jay ... Robin Doody is 26 (h/t sister Clare) ... Ed Kaleta, VP of federal gov't relations and head of Walgreens D.C. office ... Mike Rigas, deputy director of OPM ... Truman Reed (h/t Ashley Reed) ...

... **Andy Manatos**, CEO of Manatos & Manatos ... Yitzhak Tshuva is 7-0 ... Nicole Eynard ... Amanda Crumley (h/t Jon Haber) ... Marti Adams Baker of the Brunswick Group and a De Blasio alum ... Melisse Morris, VP at BlackRock ... Edelman's Melinda Boisjolie ... Danielle Tcholakian ... Roselle Chartock ... Randy James, senior manager at Sugerman Communications in L.A. ... Kathy Roeder ... Felix Thomas Morgan ... Ana Kasparian ... Larry Van Dyne is 73 ... Michael Hudome ... Larry Irving ... Maria H. Keech LeGrand ... Justin Crockett Elzie ... Travis Rundlet ... Jim Bell of TTR Sotheby's ... Dan Hunter ... Craig Trost ... Patrick Dillon ... Luke Bauer ... Linda Olsen (h/ts Teresa Vilmain)

THE SHOWS, by @MattMackowiak, filing from Austin:

-- **CNN's "State of the Union"** with substitute anchor Dana Bash: Sen. Jeff Flake (R-Ariz.) ... Sen. Doug Jones (D-Ala.). Panel: Rep. Karen Bass (D-Calif.), Linda Chavez, Ken Blackwell and Jeff Weaver

-- **"Fox News Sunday"** with substitute anchor Dana Perino: Sen. Lindsey Graham (R-S.C.) ... Ilyse Hogue ... Kay Bailey Hutchison. Panel: Brit Hume, Gillian Turner, former Rep. Jason Chaffetz (R-Utah) and Juan Williams

-- **NBC's "Meet the Press"**: Senate Minority Leader Dick Durbin (D-Ill.) ... Sen. Roy Blunt (R-Mo.) ... Mimi Rocah. Panel: Mark Murray, Susan Page, Danielle Pletka and Eugene Robinson

-- **ABC's "This Week"**: Leonard Leo ... Sen. Richard Blumenthal (D-Conn.) ... Kay Bailey Hutchison. Legal panel: Alan Dershowitz and Asha Rangappa. Panel: Former N.J. Gov. Chris Christie, Stephanie Cutter, Sara Fagen and Patrick Gaspard

-- **CBS's "Face the Nation"**: Sen. Joni Ernst (R-Iowa) ... Sen. Chris Coons (D-Del.) ... Kay Bailey Hutchison. Panel: Toluse Olorunnipa, Kelsey Snell, Reihan Salam, Mark Landler and Jeff Pegues

-- **Fox News' "Sunday Morning Futures"**: Rep. Louie Gohmert (R-Texas) ... Gordon Chang ... Rep. Andy Biggs (R-Ariz.) ... former Gov. Bill Richardson (D-N.M.). Panel: Ed Rollins and James Freeman

-- **Fox News' "MediaBuzz"**: Mollie Hemingway ... Susan Ferrechio ... Mo Elleithee ... Brit Hume ... Emily Jashinsky ... Adrienne Elrod

-- **CNN's "Inside Politics"** with John King: Panel: Julie Hirschfeld Davis, Karoun Demirjian, Jackie Kucinich and Sahil Kapur

-- **CNN's "Fareed Zakaria GPS"**: Special episode: "The Two Faces of Kim Jong Un", featuring interviews with author Jieun Baek, Jeffrey Lewis, former Chairman of the Joint Chiefs of Staff Adm. Michael Mullen, Evan Osnos, Jung Pak, Sue Mi Terry and Alex Wellerstein

-- **CNN's "Reliable Sources"**: Panel: Neena Satija, Lomi Kriel and Rafael Carranza ... Nina Totenberg ... Emily Holden and Elaina Plott ... Ezra Klein

-- **Univision's "Al Punto"**: Diego Luna ... Mexico City Mayor-elect Claudia Sheinbaum ... Rev. Samuel Rodriguez ... Alexandria Ocasio-Cortez ... Ben Rhodes ... wife of Mexican president-elect Beatriz Gutiérrez

-- **C-SPAN: "Newsmakers"**: Judicial Crisis Network chief counsel and policy director Carrie Severino, questioned by Roll Call's Niels Lesniewski and Bloomberg News' Greg Stohr ...

"Q&A": freelance journalist Tom Dunkel

-- **MSNBC's "Kasie DC"**: Rep. Mike Quigley (D-Ill.) ... Marc Lotter ... David Fahrenthold ... Kimberly Atkins ... Joyce Vance ... Ruth Marcus ... Ken Dilanian ... Michael Steel ... Jo Ling Kent ... Ayanna Pressley

-- **Washington Times' "Mack on Politics"** weekly politics podcast with Matt Mackowiak (download on iTunes, Google Play, or Stitcher or listen at MackOnPolitics.com): Author and Ethics and Public Policy Center senior fellow Mona Charen.

***** **A message from the U.S. Chamber of Commerce**: Trade works. Tariffs don't. See how hard your state will be hit by retaliatory tariffs on American exports at www.TheWrongApproach.com. *****

SUBSCRIBE to the Playbook family: **POLITICO Playbook** <http://politi.co/2lQswbh> ... **Playbook Power Briefing** <http://politi.co/2xuOiqh> ... **New York Playbook** <http://politi.co/1ON8bqW> ... **Florida Playbook** <http://politi.co/1OypFe9> ... **New Jersey Playbook** <http://politi.co/1HLKltF> ... **Massachusetts Playbook** <http://politi.co/1Nhtq5v> ... **Illinois Playbook** <http://politi.co/1N7u5sb> ... **California Playbook** <http://politi.co/2bLvcPl> ... **London Playbook** <http://politi.co/2xfDPuK> ... **Brussels Playbook** <http://politi.co/1FZeLcw> ... **All our political and policy tipsheets** <http://politi.co/1M75UbX>

[View online](#)

To change your alert settings, please go to <https://secure.politico.com/settings>

POLITICO

This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Please click [here](#) and follow the steps to unsubscribe.

Message

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 7/6/2018 2:03:50 PM
To: Bodine, Susan [bodine.susan@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; Molina, Michael [molina.michael@epa.gov]
CC: Harlow, David [harlow.david@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
Subject: RE: Revised Draft NAA Request -- Confidential

Good morning,
I have sent the invitation, I've added a call in number as well.

Best Regards,
Tamika Burton
Staff Assistant to the Deputy Administrator Andrew Wheeler
Immediate Office of the Administrator
MC 1104A Room 3412 WJC North
(202) 564-4771 (d)
Ex. 6 (c)
burton.tamika@epa.gov

From: Bodine, Susan
Sent: Friday, July 06, 2018 9:51 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Burton, Tamika <burton.tamika@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: Revised Draft NAA Request -- Confidential

Works for me as well.

Tamika, can you send an invite?

From: Wehrum, Bill
Sent: Friday, July 6, 2018 9:50 AM
To: Molina, Michael <molina.michael@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Burton, Tamika <burton.tamika@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: Revised Draft NAA Request -- Confidential

11:00 works for me.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

From: Molina, Michael
Sent: Friday, July 6, 2018 9:48 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Burton, Tamika <burton.tamika@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Harlow, David <harlow.david@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Re: Revised Draft NAA Request -- Confidential

Yes this morning is best. I don't know how fast you can pull together. Let me and Tamika know. 11:00?

MM

Sent from my iPhone

On Jul 6, 2018, at 9:16 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Michael,

Can we get 20 minutes with Andrew today on a potential NAA for gliders?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Attached is OAR's latest draft and my comments on their earlier draft.

Susan

From: Wehrum, Bill
Sent: Thursday, July 5, 2018 7:06 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Subject: Revised Draft NAA Request

Susan – Attached is a revised draft NAA request for the gliders rule.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

<naamem (002).docx>

<naamem comments.docx>

Message

From: Bodine, Susan [bodine.susan@epa.gov]
Sent: 7/6/2018 1:16:07 PM
To: Molina, Michael [molina.michael@epa.gov]
CC: Wehrum, Bill [Wehrum.Bill@epa.gov]; Harlow, David [harlow.david@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
Subject: FW: Revised Draft NAA Request -- Confidential
Attachments: naamem (002).docx; naamem comments.docx

Michael,

Can we get 20 minutes with Andrew today on a potential NAA for gliders?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Attached is OAR's latest draft and my comments on their earlier draft.

Susan

From: Wehrum, Bill
Sent: Thursday, July 5, 2018 7:06 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Subject: Revised Draft NAA Request

Susan – Attached is a revised draft NAA request for the gliders rule.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Bill Wehrum

Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

DOCUMENT ED_002403_00000015 HAS BEEN WITHHELD IN FULL UNDER FOIA
EXEMPTION 5, DELIBERATIVE PROCESS

DOCUMENT ED_002403_00000016 HAS BEEN WITHHELD IN FULL UNDER FOIA
EXEMPTION 5, DELIBERATIVE PROCESS

Message

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 7/6/2018 2:56:28 PM
Subject: Weekly Report 07.06.2018
Attachments: 07062018weeklyreport.pdf; Weekly Report 07.06.2018.docx

Importance: High

Good Morning,
Please see the weekly report attached!

Have a great weekend.

Tamika Burton
Staff Assistant to the Deputy Administrator
Immediate Office of the Administrator
MC 1104A Room 3412 WJC North
(202) 564-4771 (d)

Personal Matters / Ex. 6

 (c)
burton.tamika@epa.gov



Region 1

Non-responsive Record

Region 2

Non-responsive Record

Region 3

Non-responsive Record

Non-responsive Record

Region 4

Non-responsive Record

Region 5

Non-responsive Record

Region 6

Non-responsive Record

Non-responsive Record

Region 7

Non-responsive Record

Region 8

Non-responsive Record

Region 9

Non-responsive Record

Region 10

Non-responsive Record

Office of Administration and Resources Management

Non-responsive Record

Office of Air and Radiation

Hot Topics

Deliberative Process / Ex. 5

- Packages that will move soon to Signature:

Deliberative Process / Ex. 5

- Packages at (or about to be at) OMB for Review:

Deliberative Process / Ex. 5

- Packages that will move soon to OMB for Review:

Deliberative Process / Ex. 5

Upcoming Major Decisions and Events

- **Montreal Protocol:** On July 11th – July 14th, OAR Staff will serve on the U.S. Delegation for the Montreal Protocol's Open-Ended Working Group Meeting (OEWG) in Vienna, Austria for

preliminary discussions ahead of the Meeting of the Parties (MOP) this fall. In addition to EPA staff, the U.S. Delegation will also include staff from State Department, the White House, and USDA.

- **SO₂ NAAQS Public Hearing:** On July 10th, EPA will hold a public hearing here in Washington, DC on the recent proposal to retain the existing primary National Ambient Air Quality Standard for Sulfur Oxides.
- **RFS Public Hearing:** On July 18th, EPA will hold a public hearing in Michigan on the recently proposed volume requirements under the Renewable Fuel Standard program.

Office of Chemical Safety and Pollution Prevention

Non-responsive Record

Non-responsive Record

Office of the Chief Financial Officer

Non-responsive Record

Office of Congressional and Intergovernmental Relations

Non-responsive Record

Office of Enforcement and Compliance Assurance

Non-responsive Record

Non-responsive Record

Office of General Counsel

Non-responsive Record

Office of International and Tribal Affairs

Non-responsive Record

Office of Land and Emergency Management

Non-responsive Record

Office of Policy

Non-responsive Record

Non-responsive Record

Non-responsive Record

Non-responsive Record

Office of Research and Development

Non-responsive Record

Non-responsive Record

Office of Water

Non-responsive Record

Region 1

Non-responsive Record

Region 2

Non-responsive Record

Region 3

Non-responsive Record

Non-responsive Record

Region 4

Non-responsive Record

Region 5

Non-responsive Record

Region 6

Non-responsive Record

Non-responsive Record

Region 7

Non-responsive Record

Region 8

Non-responsive Record

Region 9

Non-responsive Record

Region 10

Non-responsive Record

Office of Administration and Resources Management

Non-responsive Record

Office of Air and Radiation

Hot Topics

Deliberative Process / Ex. 5

- Packages that will move soon to Signature:

Deliberative Process / Ex. 5

- Packages at (or about to be at) OMB for Review:

Deliberative Process / Ex. 5

- Packages that will move soon to OMB for Review:

Deliberative Process / Ex. 5

Upcoming Major Decisions and Events

- **Montreal Protocol:** On July 11th – July 14th, OAR Staff will serve on the U.S. Delegation for the Montreal Protocol's Open-Ended Working Group Meeting (OEWG) in Vienna, Austria for

preliminary discussions ahead of the Meeting of the Parties (MOP) this fall. In addition to EPA staff, the U.S. Delegation will also include staff from State Department, the White House, and USDA.

- **SO2 NAAQS Public Hearing:** On July 10th, EPA will hold a public hearing here in Washington, DC on the recent proposal to retain the existing primary National Ambient Air Quality Standard for Sulfur Oxides.
- **RFS Public Hearing:** On July 18th, EPA will hold a public hearing in Michigan on the recently proposed volume requirements under the Renewable Fuel Standard program.

Office of Chemical Safety and Pollution Prevention

Non-responsive Record

Non-responsive Record

Office of the Chief Financial Officer

Non-responsive Record

Office of Congressional and Intergovernmental Relations

Non-responsive Record

Office of Enforcement and Compliance Assurance

Non-responsive Record

Office of Environmental Information

Non-responsive Record

Office of General Counsel

Non-responsive Record

Office of International and Tribal Affairs

Non-responsive Record

Office of Land and Emergency Management

Non-responsive Record

Office of Policy

Non-responsive Record

Non-responsive Record

Non-responsive Record

Non-responsive Record

Office of Research and Development

Non-responsive Record

research and response.

Non-responsive Record

Office of Water

Non-responsive Record

Appointment

From: Frye, Tony (Robert) [frye.robert@epa.gov]
Sent: 7/9/2018 2:17:23 PM
To: Frye, Tony (Robert) [frye.robert@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]; Burton, Tamika [burton.tamika@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]
Subject: Administrator Wheeler Call w/ Ranking Member Carper
Attachments: Administrator Wheeler call with TC 7-9-18.docx
Location: Call info **Ex. 6** (Diana Naylor will connect)
Start: 7/9/2018 7:00:00 PM
End: 7/9/2018 7:30:00 PM
Show Time As: Busy

Administrator Wheeler
Call with
Senator Tom Carper (D-DE)
July 9, 2018
3:00PM

POTENTIAL AREAS OF CONCERN

Deliberative Process / Ex. 5

MAIN REQUESTS IN CARPER LETTER

1. Withdraw proposal to repeal air emissions standards for glider trucks.
2. Proper documentation for policy decisions.
3. Respond to FOIA in a timely manner with minimal redactions.
4. Restore scientific information to the EPA website.
5. Withdraw “secret science”.
6. Abandon efforts to weaken vehicle fuel economy standards and respect California’s authority.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Carroll, Carly [Carroll.Carly@epa.gov]
Sent: 7/6/2018 12:27:11 PM
Subject: Hot Topics - 07.06.18
Attachments: Hot Topics_07.06.18.docx

Carly Carroll
Special Assistant
U.S. Environmental Protection Agency
(202) 564-2769
carroll.carly@epa.gov

DOCUMENT ED_002403_000000175 HAS BEEN WITHHELD IN FULL UNDER FOIA
EXEMPTION 5, DELIBERATIVE PROCESS

Message

From: Lyons, Troy [lyons.troy@epa.gov]
Sent: 7/9/2018 5:32:33 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Burton, Tamika [burton.tamika@epa.gov]
Subject: RE: Administrator Wheeler Call with Senator Carper
Attachments: Administrator Wheeler call with TC 7-9-18.docx

Importance: High

There was an error on the first version—please use this one.

From: Lyons, Troy
Sent: Monday, July 9, 2018 1:22 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Burton, Tamika <burton.tamika@epa.gov>
Subject: Administrator Wheeler Call with Senator Carper
Importance: High

Administrator Wheeler:

Attached are suggested talking points for your 3:00PM call with Senator Carper. Please let me know if you would like OCIR to make any modifications.

Troy M. Lyons

Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency

Ex. 6 (cell)

Message

From: Lyons, Troy [lyons.troy@epa.gov]
Sent: 7/9/2018 5:22:36 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Burton, Tamika [burton.tamika@epa.gov]
Subject: Administrator Wheeler Call with Senator Carper
Attachments: Administrator Wheeler call with TC 7-9-18.docx; 07-06-18TC Letter to Wheeler.pdf

Importance: High

Administrator Wheeler:

Attached are suggested talking points for your 3:00PM call with Senator Carper. Please let me know if you would like OCIR to make any modifications.

Troy M. Lyons

Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

Ex. 6 (cell)

JOHN BARRASSO, WYOMING, CHAIRMAN

JAMES M. INKHEIL, OKLAHOMA
SHELLEY MOHRER, CALIF., WEST VIRGINIA
JOHN BUDZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE BOUNDS, SOUTH DAKOTA
JOHN ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN BILLIRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
CHRIS VAN HOLLEN, MARYLAND

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6176

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

July 6, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Andrew:

I write to congratulate you on being named Acting Administrator of the EPA and to ask you to do all that you can to restore the American people's confidence in the agency's mission, which is the protection of human health and our environment.

Scott Pruitt's record of corruption, wasteful spending on himself while attempting to slash the EPA budget and workforce, secrecy, retaliation against those who dared object, and legally questionable rulemaking proposals have been well-documented.

They say that history doesn't always repeat itself, but it often rhymes. A review of a different chapter in EPA's history reveals the truth of that adage. Mr. Pruitt's tenure at the agency brings to mind the tenure of former EPA-Administrator Anne Gorsuch, which was described as "marked by sharp budget cuts, rifts with career EPA employees, a steep decline in cases filed against polluters and a scandal over the mismanagement of the Superfund cleanup program that ultimately led to her resignation in 1983....She filled various departments at EPA with subordinates recruited from the very industries the agency was supposed to be regulating."¹

When Ms. Gorsuch was forced to resign, President Reagan nominated William Ruckelshaus, who had served as the nation's first EPA Administrator, and who had since that time also worked on behalf of many companies regulated by EPA, to serve as Ms. Gorsuch's replacement. Much like your nomination to serve as EPA's Deputy Administrator, Mr. Ruckelshaus's industry ties² led to considerable skepticism³ when his nomination was considered by the Environment and Public Works Committee.

In his opening statement (attached), he observed that the opposition to his nomination during the two days of hearings that preceded his appearance gave him "a sense that I was witnessing my own

¹ https://www.washingtonpost.com/news/energy-environment/wp/2017/02/01/neil-gorsuchs-mother-once-ran-the-epa-it-was-a-disaster/?utm_term=.1417a04c3592

² <https://www.nytimes.com/1983/03/26/us/ruckelshaus-s-ties-split-environmental-leaders.html>

³ https://www.washingtonpost.com/archive/politics/1983/05/04/wildlife-federation-endorses-ruckelshaus-other-groups-neutral/b649ff6f-c7aa-4fee-896c-6324974f52a0/?utm_term=.13b427678ce7

lynching.” During his confirmation hearing, Mr. Ruckelshaus committed to following and enforcing environmental laws, said he would request and use the advice provided to him by EPA’s career staff, and also said: “There will be no hit list. There will be no “Big P” political decisions, there will be no sweetheart deals.... I will seek help from scientists, from environmentalists, from economists, from industrialists and from the general public... Recognizing the important oversight function that Congress must play, a better dialogue and increased trust between the legislative and administering authorities in this area will be a high priority of mine.”

After he was nominated, the Washington Post reported (attached) that he received “an emotional hero’s welcome” from the beleaguered EPA employees as he promised that “the atmosphere of the demoralized agency will change dramatically.” Within a week after he re-assumed the helm of the agency, Mr. Ruckelshaus authored the ‘fishbowl memo’ (attached) to establish strong transparency and ethics procedures at EPA. When he resigned in 1985, The New York Times said⁴ that “he has widely been credited with restoring the morale of the career employees at the agency, bringing in a cadre of competent, experienced assistant administrators and restoring much of the agency’s will and capacity to carry out the environmental laws. He also insisted that the agency’s enforcement staff step up its operations against violators of the environmental laws.”

Mr. Ruckelshaus recently opined,⁵ of Scott Pruitt’s EPA, that the “EPA should have no natural constituency but the public whose health it is mandated to protect.... the consequence of such conduct is the slow, destructive erosion of public trust in the EPA. Once trust is lost and warnings of unsafe air or contaminated water are ignored, Americans will pay the price. Without that trust, not only will people question whether they can believe their government but also business and industry will face public backlash.”

Andrew, you have been granted an enormous challenge and responsibility, but an even greater opportunity. The damage Scott Pruitt has done to the Agency will not easily be undone. While you and I have not always agreed, and will not always agree, on every environmental policy matter, it is my hope and expectation that you will carefully consider the lessons of the past as you prepare to chart the Agency’s future. My staff and I stand ready to help, and to that end, I request a meeting in the near future to discuss what we feel are some of the most important near-term steps you could take to restore confidence in the Environmental Protection Agency (attached).

With best personal regards, I am,

Sincerely yours,


Tom Carper
Ranking Member

⁴ <https://www.nytimes.com/1984/11/29/us/ruckelshaus-resigning-post-as-chief-of-the-epa.html>

⁵ https://www.washingtonpost.com/opinions/pruitt-is-turning-his-back-on-transparency-at-the-epa/2017/11/01/cd2c1b84-bd88-11e7-8444-a0d4f04b89eb_story.html?utm_term=.67fb14489d0a

Restoring Trust in the EPA

This is a non-exhaustive list that does not include all EPA actions that are of concern. Rather, this list represents ways to remedy some of Administrator Pruitt's most egregious proposals, practices and missed opportunities.

Restore transparency, trust and accountability

1. Provide daily, more detailed information about the activities of confirmed and other senior unconfirmed EPA officials.
2. Ensure that all policy and other decisions are properly documented in writing.
3. Respond to Freedom of Information Act requests in a complete, minimally redacted, and timely manner.
4. Respond to Congressional oversight letters in a complete, accurate, and timely manner.
5. Cease efforts to dramatically shrink, exclude, or retaliate against members of the EPA workforce.
6. Restore scientific information that was removed from EPA's website.
7. Advocate in support of a budget that appropriately reflects the agency's needs and responsibilities.
8. Ensure that environmental laws are enforced through enabling the detection and deterrence of potential violations and requiring appropriate monetary and/or environmental remedies.

Abandon legally questionable policies and proposals

1. Withdraw EPA's proposal to repeal air emission standards for glider trucks, which appears to largely benefit a single company while being opposed by the vast majority of industry, and was influenced by an industry-funded "study" that is currently the subject of an official investigation into research misconduct for failing to adhere to basic scientific standards.
2. Withdraw EPA's "secret science" proposal, which will require EPA—when developing rules—to rely only on scientific studies where the underlying data have been made public and are available to be reproduced. Such a policy would likely violate several laws that mandate the use of "best available science," including the Toxic Substances Control Act and Safe Drinking Water Act because it would require EPA to ignore some of the "best" scientific studies, and would also likely run afoul of the Administrative Procedure Act, which requires agencies to consider and respond to all information presented to it pursuant to a rulemaking.
3. Abandon efforts to complete the draft proposed rule that seeks to dramatically weaken vehicle fuel economy and greenhouse gas tailpipe standards and preempt California's authority to set and enforce its own greenhouse gas tailpipe standards (as well as that of the 12 additional states, including Delaware, that have adopted them). Instead, work to negotiate a 'win-win' solution on federal fuel economy and tailpipe emissions standards that can be supported by both the automobile industry and the State of California.

4. Implement the near-unanimously enacted Toxic Substances Control Act in a manner consistent with Congressional intent that new and existing chemical safety reviews be conducted for all uses of a chemical substance, and additionally, that proposed bans for some uses of three chemical substances be quickly finalized.
5. Follow the law when revising, implementing and enforcing rules to limit air pollution under the Clean Air Act, abandon efforts to weaken existing mercury and air toxics and ozone rules, and live up to the responsibility to protect downwind states from air pollution blown in from upwind states.

Senator STAFFORD. Thank you very much, Senator Simpson.
Mr. Ruckelshaus, we would be glad to hear your statement.

**STATEMENT OF WILLIAM D. RUCKELSHAUS, ADMINISTRATOR-
DESIGNATE, ENVIRONMENTAL PROTECTION AGENCY**

Mr. RUCKELSHAUS. Thank you very much, Mr. Chairman and members of this committee.

I appreciate very much those kind comments that many of you have made in your charge to me to take my new assignment seriously. I watched these committee proceedings yesterday on television, and I must confess I had a sense that I was witnessing my own lynching. Here this morning, I have a sense in part that I have been at my own funeral.

Somewhere in between, I am sure, lies the real me.

Twelve years ago I appeared before this same committee and I asked the members to recommend that the full Senate confirm me as the first Administrator of the Environmental Protection Agency. I am today asking the committee to repeat its earlier vote of confidence.

The committee has amassed more information about me than I knew existed 6 weeks ago. You have all my financial data, my personal recusal statement, my work history, and virtually everything I have said, written, or thought about the environment or public health for the last 12 years. You even have every personal letter I have been able to find in my files relating to the job of Administrator of EPA, and all of this information has been furnished by me or at my direction by the organizations with which I am affiliated.

Mr. Chairman, I am about to note in passing the personal letters that the committee has. When the President announced his intention to nominate me some 6 weeks ago, I told my staff at Weyerhaeuser and elsewhere to cooperate with the committee fully, to give them anything they wanted. I gathered all of the speeches, testimony, articles that I had written. I even gathered all my personal correspondence, and I gave all that material to my staff and told them to give it to the committee. It never occurred to me, frankly, that the Committee would want my personal correspondence, but it was requested and turned over to the committee by my staff.

I didn't realize that this had happened until last Friday. By way of explanation, Mr. Chairman, of a letter that I wrote to you on Thursday enclosing some of the correspondence that had appeared in the New York Times, I indicated to you I didn't know where it was coming from. On Friday, a member of my staff brought up the bundle he had sent and he was very proud of the fact that he had followed my instructions and turned everything over to the committee. That is how it happened.

I did find over the weekend some mention of the environment in a couple of letters that I sent to my mother which I would be glad to turn over to the committee.

She, like some other members of this committee, had a question about judgment in returning. She asked me on the phone how I could possibly take a job 10 years later in which I was not getting a promotion.

I told her she wouldn't want to hear the whole thing.

Well, I don't believe it is possible, Mr. Chairman, for this committee to know any more about me than you now do. What you see is really what you get. I will, of course, answer any questions that you might have regarding the material that I have given you, and I would respond to any questions that might have arisen at the hearing yesterday.

In this statement I will not dwell on the record before you but instead will tell you what I plan to do if confirmed, how I intend to do it and what I hope to accomplish my second time around.

Before I start, let me make clear my personal perception of the issues the EPA was created to address. To the American people, protection of public health and our national environment embodies a terribly important and enduring set of values. The survey data I have seen and my own experience strongly indicate that Americans feel more deeply committed to the protection of public health and the environment than any people on earth.

Our country, acting through Federal, State and local governments over the past two decades, has translated that commitment into a massive network of laws and regulations to protect the health of our people, the air, water and earth that they all share. As these laws attest, the debate in this country over whether we are going to protect public health and our environment has long since ended.

I completely share our Nation's commitment to the values of public health and the environment. Since first coming to EPA in 1970, I have participated in the national dialog about how to translate those values into achievable goals. I intend, while at EPA, to continue to participate, and if confirmed, many of the same arguments I have made in the past whether in or out of the government.

Now, if I am confirmed, what do I plan to do? I discussed the nature of the Administrator's job with the President and his immediate staff before he asked me to serve. We agreed that people and resources to do the job were essential ingredients of success.

My first priority will be to recruit the best people I can find to manage the agency. I am gratified that in the last 6 weeks, there have been literally thousands of offers to help. Many have come from people who were there before who have proven themselves under fire and who are willing to disrupt their lives to help their country.

I am confident that from that group and others a superior group of people can be assembled.

As to the resources to do the job, it will be a very high priority of mine to review the existing budgetary ceilings to see if additional money or people are needed to carry out the mandate of Congress. If I conclude we need more help, working with the administration, we will submit an amended 1984 budget request and supplemental 1983 budget request consistent with the 1984 amendments.

Many of you have expressed an interest in whether I intend to request additional budgetary authority or whether I will seek policy changes on virtually every program area the agency administers. These questions are hard, if not impossible, to answer in the abstract, and many of them I simply cannot properly respond to until I have a chance to review the policies and program needs in more detail.

I can offer some guidance on what I now see as high-priority issues. Much has been said and written in criticism of EPA's enforcement

policies. The questions seem to focus on three aspects of enforcement. The will, capacity and organization.

As to will, let me disabuse anyone who believes EPA, while I am there, will not have the requisite determination to enforce the laws as written by Congress. The environmental laws of this country were passed by Congress and were meant to be taken seriously by the administering authorities. I do take the Congressional charge seriously, and if I am confirmed, EPA will take that charge seriously.

We will enforce the laws of this country. We will be firm, and we will be fair. We must never forget that in a time of high emotion such as we now face where the public interest demands fairness in the enforcement of our law, the public good mirrored in the Bill of Rights demands that due process not be abandoned. The EPA I head will adhere to both principles.

I have asked the people now at EPA for a review of both the capacity to enforce, which is a resource question, and the organization of the enforcement function, which is a management question. I have had a preliminary response to both questions but have come to no final conclusions as to what makes the most sense for the agency.

The whole issue of toxic substances, as some of you have already mentioned, is of much greater prominence than when I was first at EPA. The law to regulate pesticides, FIFRA, was already enacted. There were provisions in the Clean Air Act and Clean Water Act that related to toxic substances, but only since I left has EPA established the basic structure to control the manufacture, distribution, use and ultimate disposal of toxic substances.

In the last 6 weeks, I have seen in the press that the number of problems, this has had an impact on me. Mr. Chairman and members of the committee, I had some feeling for the scope of this problem, but nothing like I received in the last 6 months by reviewing the clippings that EPA gets from all over the country relating to toxic substances. I have seen that the number of problems surfacing all over the country relating to toxic substances and toxic chemicals is truly staggering.

We have in place a complex set of laws and regulations to deal with the toxic substance problems. I certainly have no preconception whether these laws or regulations or the resources we have committed to their implementation are adequate. I do know that wise and aggressive implementation of these laws must be a very high priority of mine, and it will be.

There are other matters which will immediately demand my attention such as the reauthorization of most of the organic laws of EPA—8 out of 10 have expired—along with specific issues such as acid rain.

Last and certainly not least, I will make a concerted effort to harness the energies and the talents of the people at EPA toward the Agency's mission.

EPA's greatest resource today is the same as when we started: It's people. Mr. Chairman, when EPA was created in 1970, in the first 45 days of its existence, we received 250,000 applications for jobs from all over this country. That was an expression that was impressive to me at the time of the concern of the people of this country about the environment, and as best I can tell, that concerns has not diminished since.

If these people there are trusted, if they are included in and given clear guidance as to what is expected of them, they will perform to a very high standard. I will work hard, and they will work hard toward our common objective.

To carry this message of trust and reliance forward, I intend to personally visit and talk to as many people at EPA here and in the 10 regions and laboratories in the first few weeks after confirmation.

That is what I intend to do. How am I going to do it? In my judgment, it is important for this committee's deliberations to know what I intend to do. It is also important to know how I will do it.

The charges currently lodged against some of the people of EPA focus primarily on abuse of process. There are many policy differences, but the main allegations concentrate on the way the existing laws are administered. Without commenting on the substance of those charges, this committee should know how I intend to operate.

The existing laws will be administered as written. I will continue to bring to this committee's attention recommendations for change where I believe change is warranted, but in the meantime, ours remains a Nation of laws and not of men, and the laws will remain supreme.

As I did before when I was there, I will do now, and that is, operate EPA as honestly as I know how. There will be no hit list. There will be no "Big P" political decisions, there will be no sweetheart deals. We will attempt to communicate with everyone from the environmentalists to those we regulate, and we will do as openly as possible.

Mr. Chairman, I have already directed that my staff attempt to prepare—assuming this body confirms me—to prepare some guidance for how we will communicate so that it will be clear to everyone exactly how this communication can take place, and it will be as open as we know how to make it.

I will seek the best advice I can get on how to deal with the terribly complex problems EPA must confront. I will seek help from scientists, from environmentalists, from economists, from industrialists and from the general public. I hope to engage former administrators of EPA in a constant dialogue to take advantage of their collective wisdom.

Lastly, I hope to engage this committee—and I know, Mr. Chairman, every Committee that ever confirms anybody, and this body hears the same pledge made by the person they confirm, but I am going to do the best I can to live up to this pledge. I hope to engage this Committee, this Committee's staff and other committees of Congress and their staffs in a joint effort to improve our Nation's ability to respond to the mission of health and environmental problems facing EPA.

Recognizing the important oversight function that Congress must play, a better dialogue and increased trust between the legislative and administering authorities in this area will be a high priority of mine.

In the past weeks, I have given a good deal of thought to what I would like to do at EPA, what goals I would set for myself, what I would like to accomplish, and I thought it might be well to share with this committee at least my preliminary thoughts about those goals. First and foremost, the American people need to believe that the agency charged with protecting so many aspects of their health and their natural environment is staffed with first-rate people doing their very best. The problems EPA confronts are hard ones. Some of these prob-

lems just defy solution. Throughout, from the definition of the problem to its solution, the agency must deal with enormous scientific uncertainty. It often must act before it is clear what the optimum solution would be.

To function at all in such uncharted waters, the American people must trust EPA's motivation and ability. To insure that necessary trust will be a prime objective of mine.

I will endeavor to instill in the employees of EPA a sense of mission and dedication to excellence. I will try to convince them that EPA's mission must be carried out by people who recognize they are servants of the public and not their masters and by people who are as dedicated to fairness and civility to others as to excellence in themselves. An agency steeped in this tradition is a legacy to which I will aspire.

I will attempt to put a management system in place that can meet our goals effectively and efficiently. To accomplish this, EPA and all its elements must first understand our mission and objectives so we know what we are managing toward.

Most of EPA's mission and objectives are defined by statute. I would hope, working with the Congress, to create for the country a more effective legal framework to attain our goals. As I have stated, my obligation as an Administrator is to faithfully execute the laws of the country. In the process of such execution, I will seek to evaluate the impact of the law on both the intended and unintended targets.

Where I think we can lessen the effect on the unintended target without sacrificing our objectives, I will recommend change to the Congress. I did this at EPA before, and I will do it again.

As part of my effort to improve our legal framework, I intend to address the question of the role that the various levels of government play in administering our environmental and health laws.

Too much time is spent by one level of government overseeing the work of the other. With a more clear definition of understanding of who is supposed to do what and who pays for it, we could eliminate much of the public and private frustration over environmental laws. That is a tall order in our Federal system, but with a joint effort by the EPA, the Congress, and the States, more clarity and less redundancy is possible.

I will work toward gaining greater public comprehension of the complexities of managing risk in a free society. I also hope to enlist the scientific community in a more aggressive participation in the public dialog. In my view, the public needs to hear more of what the Administrator of a place like EPA hears regarding scientific uncertainty if they can be expected to support sound public policies.

I will work particularly hard to foster a better dialog between government and environmentalists and the regulated industries. The endless public and private acrimony that surrounds the mix of problems before EPA deflects energy, saps resources, and is ultimately debilitating to the whole effort. Over the last several years, I have become convinced that as Americans, we must first remember we all share this geography of our country, if we are to convince the rest of mankind that we must share and conserve the geography of our planet.

I have other goals regarding such things as developing new and accepted ways of measuring progress against our environmental and health goals and fashioning effective long-term strategies for controlling toxic substances.

I could go on, but accomplishing even a fraction of these objectives will be task enough. I will welcome suggestions from this committee regarding the what and how of my hopes.

I did not seek this job. But having decided to accept it, I am energized and excited by the challenge. If confirmed, I pledge to this committee and to the American people to do the best I can as long as I'm there.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Ruckelshaus, for your excellent opening statement.

I have conferred with Senator Randolph, and we would propose to our colleagues on the committee that we limit ourselves in the first round to 10 minutes per member for questions.

There will be as many rounds as necessary to satisfy all members of the committee. Questions which they wish to address to Mr. Ruckelshaus will be addressed to him, and he will have a chance to respond to them. Is there objection to following that procedure?

[No response.]

Senator STAFFORD. I hear none, and that being the case, we will start. Again, Senator Randolph and I have conferred, and we would like to propose continuing the hearing today until 1 o'clock, at least, and then starting again at 10 o'clock tomorrow morning and running as long as necessary to see that the members are satisfied in connection with questions and answers.

Is there objection to following that procedure?

[No response.]

Senator STAFFORD. Before going to questions, the Chair is delighted to see that Senator Moynihan, a most valuable member of this committee, has joined us.

Senator Moynihan, do you have any opening statements that you would like to make? We would put them in an appropriate place in the record for you.

Senator MOYNIHAN. I would like to welcome my old friend, Mr. Ruckelshaus. We were together at the time of the drafting of the Executive order which created the EPA and which is still its basis. We welcome you back, sir. May I be the first to congratulate you on a superb opening statement.

Senator STAFFORD. Mr. Ruckelshaus, in my opening statement, I alluded to the fact that some decisions are entrusted by law to the Administrator of the Environmental Protection Agency and to no other person. It has long been the collective view of this committee that there are some decisions which even the President himself cannot make, even though the Administrator is a Presidential appointee. One example is the requirement of the Clean Air Act that the Administrator establish the ambient standards for air pollutants. I would like to ask you some questions regarding your view of the Administrator's independence in the administration as well as what assurances you have received, and from whom?

But first, let me make this brief observation: After the election of 1980, but before the administration had actually changed hands, David Stockman wrote an article laying out what he called a "regulatory blueprint." This article, entitled "Avoiding a GOP Economic

3/23/83
Wash. Post

RETURN

Ruckelshaus Given an Emotional Welcome By 1,000 Employees of Embattled EPA

By Dale Russakoff
Washington Post Staff Writer

William D. Ruckelshaus returned yesterday to the embattled Environmental Protection Agency, receiving an emotional hero's welcome from more than 1,000 agency employees who applauded him noisily, laughed at his jokes and hoisted a banner reading: "How do you spell relief? RUCKELSHAUS."

Ruckelshaus, the EPA's first administrator who was nominated Monday by President Reagan to return to his old post, pledged to restore public trust in the troubled agency, to make it "adhere to an iron integrity," to respect civil servants and to "administer and enforce the laws as they're written by Congress."

Those simple promises drew thunderous ovations from the employees, who crowded into Waterside Mall, where the agency is headquartered, to hear Ruckelshaus' first major address since his nomination. He did not mention his predecessor, Anne M. Burford, and made no specific commitments on policy or personnel shifts, but he appeared to be sending a message that the atmosphere of the demoralized agency will change dramatically.

The mood was reminiscent, many employees said, of the early 1970s, when the agency was founded amid a national clamor for environmental protection. Many of the EPA workers said they came to the agency as young college graduates with a sense of mission and they viewed Ruckelshaus as their comrade.

"The agency and the world were different then," said Hugh Kaufman, a self-styled "whistle blower" in the EPA toxic waste cleanup program. "In the last two years, we have been very much oppressed. We had poor management, outrageous management, potential criminal mismanagement, oppression of civil servants, a feeling that we as EPA regulators were being spat on by the White House. Seeing Bill Ruckelshaus come back is like opening the gates and tearing down the bars."

Ruckelshaus waded into the

and said through tears: "I'm so happy you're back, I missed you."

Another woman put one hand on each of his shoulders and said with feeling: "The toxic waste program needs you badly." Ruckelshaus answered confidently: "Great, we're going to straighten her out."

Ruckelshaus told the employees he is convinced that Reagan "is committed to doing the job we have been assigned by Congress and to giving us adequate resources to do it," one of the few statements in the speech that was not followed by cheers. He also portrayed himself as a supporter of Reagan's positions.

Ruckelshaus indicated that he will support the administration's effort to revise the Clean Air Act and other landmark environmental laws, despite strong resistance from Congress in the last two years. White House-sponsored amendments to relax portions of the Clean Air Act have been defeated, with members of Congress denouncing them as an effort to favor industry over the public.

"We need to examine the means to achieving these goals [of environmental protection] and where we find or where we believe that better means can be used, we should ask the Congress for the authority necessary to adopt those means," he said. "In the meantime, we will administer and enforce the laws as they are written by Congress."

Interior Secretary James G. Watt said yesterday that he had talked with Ruckelshaus and was "greatly impressed with his commitment to the Reagan philosophy."

Ruckelshaus acknowledged that he had worked on behalf of many industries regulated by the EPA since leaving the Nixon administration in 1973, and said he expects close scrutiny for those ties during his Senate confirmation hearings.

As a Washington attorney he represented manufacturers of vinyl chloride and aluminum and other products. Since 1975 he has been senior vice president of the huge forest products concern, Weyerhaeuser

Co. of Tacoma, Wash., named one of the nation's "Filthy Five" companies by Environmental Action, an environmentalist lobbying group.

Weyerhaeuser has contested EPA efforts to curb spraying of forests with herbicides containing toxic chemicals, including dioxin.

"My job as a lawyer was to represent my clients. My job at Weyerhaeuser was to represent all the stakeholders in that enterprise," Ruckelshaus said. "My job as EPA administrator is the same today as it was when I held that job before, and that is to represent the public interest to the best of my ability." That comment also drew loud applause.

Ruckelshaus also hinted at plans to bring in a new team of top EPA managers, but gave no specifics other than saying that Reagan "is committed to getting the best people we can find in this agency, the best people with iron integrity." Employees cheered those words as several top EPA political appointees, targets of congressional and Justice Department probes, watched quietly. They included acting EPA Administrator John W. Hernandez, Assistant Administrator John Todhunter and general counsel Robert M. Perry.

Todhunter and Hernandez came under new fire yesterday as a draft report by a House subcommittee accused them of allowing the formaldehyde industry to influence an agency decision not to regulate the suspected cancer-causing substance. Both men have denied showing favoritism toward industry.

White House officials yesterday told presidential aides to report to White House counsel Fred F. Fielding all contacts with EPA officials in the last two years, regardless of how insignificant they may seem.

The instructions came after reports that James Medas, special assistant in the White House office of intergovernmental affairs, had not reported a discussion with ousted EPA official Rita M. Lavelle on the political impact of toxic-waste cleanup decisions.

3472



Environmental News

3472

FOR RELEASE: THURSDAY, MAY 19, 1983

(202) 382-4355

RUCKELSHAUS
TAKES STEPS
TO IMPROVE
FLOW OF
AGENCY
INFORMATION

William D. Ruckelshaus, Administrator of the U.S. Environmental Protection Agency, today set forth a number of operating principles to carry out his pledge that EPA will operate "in a fishbowl."

In addition, his legal staff has established a recusal system to assure his avoiding conflicts of interest and the appearance of conflicts of interest in the performance of his duties. Agency matters in which he excuses (recuses) himself from taking part will be made available to the public.

In a memorandum to all EPA employees, the Administrator said, "When I recently appeared before the Senate Committee on Environment and Public Works, I promised that EPA would operate 'in a fishbowl.' I said, 'We will attempt to communicate with everyone from the environmentalists to those we regulate and we will do so as openly as possible.'"

Ruckelshaus said he thought it was critical to set out for the guidance of all EPA employees a set of basic principles to guide their communications with the public.

Ruckelshaus' letter covers four areas: general principles, appointment calendars, litigation and formal adjudication, and rulemaking proceedings. They call for:

-- General principles. EPA will provide, in all its programs, for the fullest possible public participation in decision-making. This requires not only that EPA employees remain open and accessible to those representing all points of view, but also that

218

3472-2
3472-2

EPA employees responsible for decisions take affirmative steps in an open manner to seek out the views of those who will be affected by the decisions. EPA will not accord privileged status to any special interest group, nor will it accept any recommendation without careful critical examination.

He added that the guidelines would be disseminated to the public for its comments. "While this is not a formal solicitation of views, we will have a 30-day waiting period in which to receive the opinions of the public. We want to get feedback from the public because of the high and continuing degree of interest in how the agency deals with the regulated community and other affected parties."

Ruckelshaus pointed out that the principles are general in nature "because you can't cover every eventuality." But he said that even while awaiting public comment which could lead to modifications, these guidelines will be in effect as agency policy.

-- Appointment Calendars. "In order to make the public fully aware of any contacts with interested persons," Ruckelshaus wrote, "I have directed that a copy of my appointment calendar for each week be placed in the Office of Public Affairs and made available to the public at the end of the week." He added that all other key EPA officials will make their appointment calendars available in a similar manner.

-- Litigation and formal adjudication. All communication with parties in litigation must be through the attorneys assigned to the case. Program personnel who receive inquiries from parties in matters under litigation should immediately notify the assigned attorney, and should refer the caller to that attorney. Formal adjudications, such as pesticide cancellation proceedings, are governed by specific requirements to which Ruckelshaus said he would adhere and which he expected all EPA employees to meet. All adjudicatory rules governing ex parte (the interest of one party only) communications will be made available to all EPA employees and to the public to assure a policy of openness and candor.

-- Rulemaking proceedings. EPA employees must ensure that the basis for the agency's decisions appear in the record. Ruckelshaus instructed employees to be certain that all written comments received from persons outside the agency be entered in the rulemaking docket, and that a memorandum summarizing any significant new factual information likely to affect the final decision received during a meeting or other conversations be placed in the rulemaking docket.

"You are encouraged to reach out as broadly as possible for views to assist you in arriving at final rules," Ruckelshaus said. "How-

219

3472-3
3472-3

ever, you should do so in a manner that ensures, as far as practicable, that final decisions are not taken on the basis of information which has not been disclosed to members of the public in a timely manner."

To avoid conflicts of interest or the appearance of them, a system has been established in which agency officials will use a recusal form to warn the Administrator of issues from which he should excuse himself.

Ruckelshaus has provided a list of companies in which he is in the process of divesting his financial interests as well as a list of various public institutions with which he has been associated as guidance in determining areas where conflicts of interest could exist. (lists attached.)

Gerald H. Yamada, Deputy General Counsel and the agency's chief ethics officer, said that the Administrator must, in instances where he still has a financial involvement, excuse himself. These instances are mandatory recusals covered by statute, Yamada said.

There also are discretionary recusals in which the Administrator will recuse himself because of the appearance of an impropriety or conflict of interest. Ruckelshaus' associations with public institutions, such as the Bio-Energy Council as an example, would fall into this discretionary category, Yamada said.

Some issues will be decided on a case-by-case basis. Once program officials have provided advice in discretionary matters, a final decision will be made by the Administrator, with the advice of Yamada. In a memorandum on the subject, it was noted that specific procedures must be followed to identify and track matters involving rulemaking, correspondence, litigation and enforcement, formal adjudication, policy statements, grants and contracts.

The memo on recusal to agency officials states, "When Mr. Ruckelshaus has recused himself from participating in any particular matter, your office is not to send him any written material or give him any briefings on such matters. His recusals will be made available to the public."

Yamada said the recusal system, however, does not mean that the Administrator will not be kept informed of everything that is going on at the agency. "He has to be made aware of what is happening, even if he can't participate in some of these matters," Yamada pointed out.

R-81

(more)

220

3472-4

-4-

3472-4

In developing the guidance principles he announced today, Ruckelshaus had his staff meet with staff members of the Administrative Conference of the United States, an independent agency that develops improvements to legal procedures used by federal agencies in administering their programs. The principles are based on recommendations made by this group and EPA's Office of General Counsel.

4

R-81

#

221

3472-5

3472-5

NOTE:

Attachment A lists those firms in which Mr. Ruckelshaus has a financial interest and is in the process of divesting himself of his financial involvement.

Attachment B is a list of public institutions with which Mr. Ruckelshaus has been associated. There may be instances involving some of these groups in which Mr. Ruckelshaus may decide to recuse himself because of the appearance of a conflict of interest.

Until Mr. Ruckelshaus finishes divesting himself of his financial interest in the firms listed on Attachment A, he is prohibited by statute from participating in any particular matter that would involve any of the firms. Once his divestiture is completed, the firms on Attachment A will be moved to the Attachment B list.

#

222

3472-6

Attachment A

3472-6

Weyerhaeuser Company (pulp and paper manufacturing,
logging, wood and plywood products)
Cummins Engine Company, Inc. (diesel engine
manufacturing)
Peabody International Corp. (manufacture of solid
and hazardous waste cleanup equipment, manufacture of
wet and dry scrubbers and electrostatic precipitators)
Nordstrom, Inc. (wearing apparel, shoes)
Pacific Gas Transmission Company (gas transmission)
U.S. West (telephone services holding company)
United Siscoe Mines, Ltd. (on-shore oil and gas
extraction, gold mining)
Geothermal Kinetics, Inc. (a subsidiary of United
Siscoe Mines)
SeaFirst Corp. (variety of financial services-
mortgage lending, leasing, computers, insurance)
Seattle First National Bank (banking services- a subsidiary
of SeaFirst Corp.)
Lincoln National Corp. (insurance services-life, health,
property, pension)

223

3472-7

Attachment B

3472-7

AFS International/Intercultural Programs
American Enterprise Institute for Public Policy Research
American Paper Institute
American Refugee Committee
Bio-Energy Council
Conservation Foundation
Council for Public Interest Law
Council on Foreign Relations, Inc.
Council on Solar Bio Fuels
The Diet
Economic Development Council of Puget Sound
Environmental & Energy Study Institute
Environmental Law Institute
Explorers Club
Handgun Control, Inc.
Harvard University
Harvard/Monsanto Advisory Board
Indiana Academy
INFORM
Monday Club
National Business Council for ERA
National Research Council
National Victims of Crime
Pacific Science Center
Public Agenda Foundation
Resolve (Center for Environmental Conflict Resolution)
Seattle Art Museum
Seattle Chamber of Commerce
Seattle University
Twentieth Century Fund
University of Puget Sound
University of Washington
Urban Institute
U.S. Business Commission on the Reconstruction of Lebanon
Weyerhaeuser Company Archives
Weyerhaeuser Company Foundation

224



34'12-8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

3472-8

THE ADMINISTRATOR

21

MEMORANDUM

SUBJECT: Contacts with Persons Outside the Agency

TO: All EPA Employees

When I recently appeared before the Senate Committee on Environment and Public Works, I promised that EPA would operate "in a fishbowl." I said, "We will attempt to communicate with everyone from the environmentalists to those we regulate and we will do so as openly as possible." Therefore, I believe it is important to set out for the guidance of all EPA employees a set of basic principles to guide our communications with the public.

In formulating these principles I considered more stringent restrictions on contacts with those outside the Agency than those described below. At my request, my staff met with staff members of the Administrative Conference of the United States to discuss these issues. This organization is an independent agency that develops improvements to the legal procedures by which Federal agencies administer their programs. Based on the recommendations of the staff members of the Administrative Conference and those of the Office of General Counsel, I am convinced that restrictions beyond those set out below would unnecessarily inhibit the free flow of information and views. In adopting these flexible procedures I am relying on EPA employees to use their common sense and good judgment to conduct themselves with the openness and integrity which alone can ensure public trust in the Agency.

General Principles

EPA will provide, in all its programs, for the fullest possible public participation in decision-making. This requires not only that EPA employees remain open and accessible to those representing all points of view, but also that EPA employees responsible for

225

3472-4
3472-9

decisions take affirmative steps to seek out the views of those who will be affected by the decisions. EPA will not accord privileged status to any special interest group, nor will it accept any recommendation without careful critical examination.

Appointment Calendars

In order to make the public fully aware of my contacts with interested persons, I have directed that a copy of my appointment calendar for each week be placed in the Office of Public Affairs and made available to the public at the end of the week. The Deputy Administrator, and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors shall make their appointment calendars available in a similar manner.

Litigation and Formal Adjudication

EPA is engaged in a wide range of litigation, both enforcement and defensive in nature. All communication with parties in litigation must be through the attorneys assigned to the case. Program personnel who receive inquiries from parties in matters under litigation should immediately notify the assigned attorney, and should refer the caller to that attorney.

Formal adjudications, such as pesticide cancellation proceedings, are governed by specific requirements concerning ex parte communications, which appear in the various EPA rules governing those proceedings. These rules are collected and available in the Office of General Counsel, Room 545, West Tower. I will conduct myself in accordance with these rules, and I expect all EPA employees to do the same.

Rulemaking Proceedings

In either formal or informal rulemaking proceedings under the Administrative Procedure Act, EPA employees must ensure that the basis for the Agency's decision appears in the record. Therefore, be certain (1) that all written comments received from persons outside the Agency (whether during or after the comment period) are entered in the rulemaking docket, and (2) that a memorandum summarizing any significant new factual information or argument likely to affect the final decision received during a meeting or other conversations is placed in the rulemaking docket.

226

3472-10

-3-

3472-10

You are encouraged to reach out as broadly as possible for views to assist you in arriving at final rules. However, you should do so in a manner that ensures, as far as practicable, that final decisions are not taken on the basis of information or arguments which have not been disclosed to members of the public in a timely manner. This does not mean that you may not meet with one special interest group without inviting all other interest groups to the same meeting, although all such groups should have an equal opportunity to meet with EPA. It does mean, however, that any oral communication regarding significant new factual information or argument affecting a rule, including a meeting with an interest group, should be summarized in writing and placed in the rulemaking docket for the information of all members of the public.

William D. Ruckelshaus

227

Administrator Wheeler
Call with
Senator Tom Carper (D-DW)

July 9, 2018

3:00PM

POTENTIAL AREAS OF CONCERN

Deliberative Process / Ex. 5

MAIN REQUESTS IN CARPER LETTER

1. Withdraw proposal to repeal air emissions standards for glider trucks.
2. Proper documentation for policy decisions.
3. Respond to FOIA in a timely manner with minimal redactions.
4. Restore scientific information to the EPA website.
5. Withdraw “secret science”.
6. Abandon efforts to weaken vehicle fuel economy standards and respect California’s authority.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5